

***MINOR SITE PLAN REVIEW REGULATIONS***  
***TOWN OF CANDIA, NEW HAMPSHIRE***  
***2010***

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Revised and Adopted December 3, 2003  
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## **SECTION I: ADMINISTRATIVE PROVISIONS**

### **Article 1.00 Authority, Adoption, and Amendment**

#### **1.01 Authority:**

The Candia Planning Board hereby adds Minor Site Plan Review Regulations to the Candia Site Plan Review Regulations under the authority of NH Revised Statutes Annotated Chapters 674:43 and 674:44 and pursuant to the authorization from the Town of Candia by vote at town meeting on March 14, 1986 (Article 28) and by said Planning Board vote at their Meeting of May 5, 1986, and pursuant to the authorization from the Town of Candia by vote at town meeting on March 14, 1989 (Article 2). These Minor Site Plan Review Regulations are adopted by the Candia Planning Board on July 19, 1995.

#### **1.02 Title:**

These regulations shall be known as the Town of Candia Minor Site Plan Review Regulations, hereinafter referred to as “these regulations”.

#### **1.03 Validity:**

If any portion of these regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

#### **1.04 Amendment:**

These regulations may be amended whenever such action is deemed advisable by the Board following a duly noticed public hearing on the proposed amendment. All changes to these regulations shall become effective when adopted and signed by the majority of the Planning Board members and filed in a central file with the Office of State Planning.

#### **1.05 Prohibition of Construction Prior to Approval:**

No construction, change of use, land clearing or building development shall be initiated until the final proposed site plan has been approved by the Board, as evidenced by the Board’s Notice of Decision.

#### **1.06 Waiver Provision:**

Upon the written request by the applicant, the Board may grant a relaxation of one or more of the provisions under these regulations as it deems appropriate.

## **SECTION II: PURPOSE, SCOPE AND COMPLIANCE**

### **Article 2.00 Purpose, Scope and Compliance with Other Ordinances**

#### **2.01 Purpose:**

The purpose of these regulations is:

- A. To provide for the safe and attractive development of the site and to guard against such conditions as would involve danger or injury to health, safety, or prosperity by reason of:
  - 1. Inadequate drainage or conditions conducive to the flooding of the subject property or that of another;
  - 2. Inadequate protection for the quality of groundwater;
  - 3. Undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.
  - 4. Inadequate provisions for fire safety, prevention, and control.
- B. To require that the land indicated on plans submitted to the Planning Board shall be of such character that it can be used for building purposes without danger to health; and
- C. To include such provisions as will create conditions favorable for health, safety, convenience and prosperity.

#### **2.02 Scope:**

The Planning Board shall review and approve or disapprove minor site plan review applications using the following criteria in its determination on whether or not a proposal falls under the jurisdiction of minor site plan review:

##### **A. Definition:**

A minor site plan review project is defined as a change or expansion of an existing legal non-residential use or a change from an existing residential use to a non-residential use in the commercial zone, where the overall effect on a lot would be the lesser of either:

- 1. 25% of existing floor space (outside dimensions); or
- 2. 2,000 square feet of total disturbed land, of which no more than 1,000 square feet is to be new building floor space.
- 3. Disturbed land includes, but is not limited to parking, driveway, septic and leach field, drainage pipes, drainage ditches, building footprint, etc.

**B. Requirements:**

For minor site plan review applications, the acreage, frontage, and set-back requirements of the subject lot shall meet minimum Zoning Ordinance requirements for the district in which the lot is located, and the proposed use/change is use shall be a permitted use in the district in which the lot is located.

**C. Exemption:**

Paving of an existing driveway and/or parking lot, 1,600 square feet in area or less, shall be exempt from site plan review only, unless there is an environmental impact, as determined by the Building Inspector. Appropriate permits are required.

**D. Validity:**

The minor site plan review process shall be used only once in any 3-year period with respect to a particular parcel. The 3-year period shall run from the date of approval.

**2.03 Compliance with Other Ordinances:**

The Minor Site Plan Review procedures shall in no way relieve an applicant from compliance with the Candia Zoning Ordinance, the Candia Subdivision Regulations, Earth Excavation Regulations, or any other regulations or by-law which pertains to the proposed development. No minor site plan shall be approved unless such plan complies with all applicable local ordinances and regulations.

**2.04 Definitions:**

For the purpose of the Minor Site Plan Review Regulations, the meaning of terms used herein shall conform to the definitions found in Article II of the Candia Zoning Ordinance and Article 20 of the Candia Subdivision Regulations.

**2.05 Construction Standards:**

All site improvements, including parking area, shall be constructed in conformance with the Candia Subdivision Regulations, State of New Hampshire Standard Specifications for Road and Bridge Construction, and the Candia Building Code.

**2.06 Change of Use Criteria:**

Change or expansion of use of a site: any multi family or nonresidential use which substantially differs from the previous use of a building or land. Any activity which in the opinion of the Building Inspector constitutes a change or expansion of use of a site may be subject to Planning Board approval under the Candia Site Plan Review Regulations.

The Building Inspector shall be guided by consideration of the extent to which the proposal relates to any of the following types of circumstances each of which is subject to site plan approval.

**Criteria:**

- A. Any increase in the size of an existing off-street parking area of 50% or more when associated with a multifamily or a nonresidential use;
- B. The creation of an off-street parking area on a site, except when the off-street parking area is associated with a single or two-family residential use;
- C. Any change in the number or size of access points or any change in the location of the driveway providing access to or from the adjoining highway when not covered by the regulations;

- D. Any occupancy for commercial, industrial or multifamily where prior use has been discontinued for two years and where no prior site plan has been approved. Change of one land use classification to another in accordance with the Standard Industrial Classification using the two digit numerical code as a guideline.

## **2.07 National Flood Insurance Requirements**

For site plans that involve land designated as “Special Flood Hazard Areas” (SFHA) by the National Flood Insurance Program (NFIP):

- A. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
- C. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
  - (i) all such proposals are consistent with the need to minimize flood damage;
  - (ii) all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and,
  - (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

## **SECTION III: PROCEDURES AND SUBMISSION REQUIREMENTS**

### **Article 3.00 Procedure for Minor Site Plan Review**

#### **3.01 Filing of Application**

Filing a minor site plan review application and other information relevant to the minor site plan proposal shall be made through the Land Use Office. Inquiries for advice concerning procedures, requirements, or the status of a particular application may be made to the assistant during regular office hours. If all filing requirements are satisfied, the assistant will schedule a public hearing on the proposal following the procedures outlined in Article 3.02 of this Section. At the public hearing, the minor site plan application will be submitted to the Board for acceptance or rejection.

#### **3.02 Notice:**

Prior to holding a public hearing, the Board shall give notice as follows:

- A. The notice shall include a general description of the proposed minor site plan which is the subject of the application, shall identify the owner and the site location, and shall state the date, time, and place of the public hearing.
- B. A copy of the notice shall be sent to the owner and the abutters by certified mail.
- C. For the purpose of these regulations in counting days, the day on which notice is given and the day of the public hearing shall be excluded.
- D. Notice shall be mailed at least ten days prior to the public hearing.



- E. Notice to the general public shall be given by one publication of a legal public notice in a newspaper as designated by the Board, at least ten (10) days prior to the public hearing, and in at least two public places in the Town of Candia.
- F. The application shall include the names and street addresses of the applicant and property owner, and all abutters as indicated in the town records nor more than five days before the date of filing. Abutters shall also be identified on any plan submitted to the Board.
- G. The applicant shall pay the noticing costs at the time of filing the minor site plan application.

### **3.03 Filing Fees:**

The applicant shall pay all filing fees in advance. (see Appendix C of the Candia Subdivision Regulations for Fee Schedule)

### **3.04 Development of Regional Impact:**

#### **A. Purpose.**

- 1. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of the Town of Candia.
- 2. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the Town of Candia.
- 3. Encourage the Town of Candia to consider the interests of other potentially affected municipalities.

#### **B. Definitions:**

Fulfill the statutory Definition – Any development which the Planning Board determines could reasonable be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- a. Relative size or number of dwelling units as compared with existing stock.
- b. Proximity to the borders of a neighboring community.
- c. Transportation networks.
- d. Anticipated emissions such as light, noise, smoke, odors, or particles.
- e. Proximity to aquifers or surface waters which transcend municipal boundaries.
- f. Shared facilities such as schools and solid waste disposal facilities.

#### **C. Review Required:**

Review Required: The Candia Planning Board, upon receipt of an application for subdivision, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.

#### **D. Procedure:**

- a. upon determination that a proposed development has a potential regional impact, the Candia Planning Board shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.
- b. Not more than 5 business days after reaching a decision regarding a development of regional impact, the Candia Planning Board shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The Candia Planning Board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant. (This statute went into effect Jan. 1, 2010).
- c. At least 14 days prior to public hearing, the Candia Planning Board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.
- d. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the

regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

Applicability: The provisions of this section shall superseded any contrary or inconsistent provisions of local land use regulations enacted under RSA 155-E and RSA 674. (August 4, 2010)

#### **Article 4.00 General Information and Filing Requirements:**

Site plans prepared for applications under these regulations are not required to be prepared by a professional engineer or licensed land surveyor. All plans must be drawn to scale.

##### **4.01 Number of Copies Required:**

The application for minor site plan review shall be submitted with three copies of the proposed site plan to the Planning Board. In addition, copies of the plan must also be submitted to the Fire Chief, Police Chief, Conservation Commission, and Building Inspector at the time of application.

##### **4.02 General Information:**

The following general information is required for all minor site plan applications:

- A. name and address of property owner and authorized agent;
- B. location of site, street address, tax map information;
- C. abutters list;
- D. description of existing and proposed use/change in use;
- E. statement of authorization, if applicable; and
- F. all filing fees.

##### **4.03 Filing Requirements:**

The following minimum filing requirements are to be shown on the plan at the time of filing the application:

- A. name and address of person preparing the plan;
- B. scale of plan, minimum 1 inch = 25 feet;
- C. north arrow;
- D. date of plan;
- E. name and address of person preparing other data to be included in the plan (if different than preparer of plan);
- F. boundary of site within 100' of disturbed land, and set-backs;
- G. total area of proposed building and disturbed land; and;
- H. zoning district and ZBA Case # if applicable.

##### **4.04 The following information must be shown on the final minor site plan to be approved by the Planning Board:**

- A. vicinity sketch identifying location of site;
- B. existing easements, if any;
- C. use of abutting properties and special features, natural or man-made and other data, within 100 feet of proposed activity, such as bodies of water, streams and water courses, swamps, marshes, wetlands, wooded areas, grave sites, discontinued roads;
- D. miscellaneous data, such as gas and/or electric lines, paved areas, location and size of structures, proposed driveways and parking spaces (in accordance with the Zoning Ordinance), location of all utilities, and existing and proposed site drainage;
- E. additional lighting and signage proposed;
- F. location of existing and/or proposed water supply and septic system;

- G. wetlands, if any, copies of state permits for filling or alteration of wetlands, if applicable;
- I. completion schedule, and
- J. landscaping shall not interfere with sightlines of entering/exiting traffic.
- K. Approved fire suppression plan, if required, must be shown on site plan.
- L. A signature block for signing by four members of the Board.

#### **4.05 Representation at Public Hearings:**

Representations made at public hearings or material submitted to the Board concerning features of the proposed buildings, structures, parking or use which is subject to these regulations shall be deemed conditions of the Board's approval of the minor site plan.

## **SECTION IV: ACTION BY THE BOARD**

### **Article 5.00 Action by the Board:**

#### **"A. Review period"**

"In accordance with RSA 676:4 I. (c )(1)" the Board shall act to approve, "approve" with modification, or disapprove the proposed site plan within 65 days following the public hearing at which the application was deemed complete and accepted as presented, excepting that the Board may apply to the Board of Selectmen "prior to the expiration of the 65 day period for an extension of time not to exceed 90 day period within which to act upon the application. "The applicant may consent to an extension of time for the Board to act beyond the initial 65 day period on the condition that such consent shall be in writing and shall be made part of the Board's record." (August 4, 2010)

#### **"B. Issuance of Decision"**

The Planning Board shall notify the applicant, in writing by means of an official Notice of Approval/ Disapproval signed by the Chairman, of its action on the final site plan. In the case of disapproval, the Board shall clearly set forth in the notice to the applicant the reasons for its action with specific reference to the standards contained in these regulations. "The minutes of the meeting at which such vote is taken, including the Official Notice of Decision including all conditions of approval, shall be placed on file in the Board's office and shall be made available for public inspection within 5 business days of such vote. Whenever a plat is recorded to memorialize an approval issued by the Board, the official Notice of Decision including all conditions of approval shall be recorded with or on the plat." (August 4, 2010)

#### **"C. Failure to Act"**

If the Board has not obtained an extension in accordance with RSA 676:4 (f) and has not approved or disapproved the plat within 65 days from the date the plan was accepted as complete, the applicant may seek relief in accordance with RSA 676:4 c (1) and (2)." (August 4, 2010)

### **5.01 Acknowledgment of Receipt of Notice:**

The applicant shall acknowledge receipt of the Notice and acceptance of all provisions set forth therein and shall return a signed copy of same to the Board for its records. Until such acknowledgment has been filed with the Board, no further actions shall be taken with regard to the final minor site plan. Failure to acknowledge receipt of said Notice and acceptance within 90 days of mailing of the notice will cause approval to lapse.

### **5.02 Period for Commencement of Construction and Completion of Work:**

The applicant shall commence work on all required improvements within one year from date of acknowledgment of Notice of Decision. Construction of all required improvements shall be completed within two years of the date of acknowledgment unless a greater period shall be specified in the Notice of Decision (NH RSA 674:42).

**5.03 Modification of Design and Improvements:**

If, at the time before or during the construction of the proposed improvements to the site, the applicant determines that unforeseen conditions make it necessary or desirable to modify the location or design of any of the required improvements or installations, the Board may authorize such modifications without further public hearing upon a determination by the Board that the proposed modifications do not significantly impact the original proposal. The Board may authorize such modifications and said authorization shall be requested by the applicant and shall be set forth in writing and signed by the Chairman of the Planning Board.

**5.04 Correction of Deficiencies:**

If it is determined that any of the required improvements have not been completed in accordance with the plans and specifications as filed by the applicant and as required by the Town, the Selectmen shall notify the applicant in writing of any such deficiencies. The applicant shall rectify all deficiencies at the expense of the applicant. If the applicant does not substantially rectify all deficiencies within a reasonable time as determined by the Town, the Town shall take all necessary actions to protect and preserve the Town's rights and interests including suspension or revocation of site plan approval. In the event of legal action, the Town shall be entitled to have reasonable attorney's and engineer's fees paid by the applicant and awarded by the court.

**Article 6.00 Certificate of Occupancy/Completeness:**

The Building Inspector shall not issue a Certificate of Occupancy/Completeness under the Candia Building Code for any building on a minor site plan which does not comply with the Board's Notice of Decision on that project. The applicant shall not use or occupy the site until a Certificate of Occupancy/Completeness has been issued by the Building Inspector.

**SECTION V: STANDARDS AND REQUIREMENTS FOR SITE DEVELOPMENT****Article 7.00 Site Standard Requirements:**

The Planning Board shall approve the proposed site plan upon determination that the following requirements have been met:

**7.01 General Requirements:**

- A. The site plan shall be of such a character that it can be used safely for the construction and installation of the improvements proposed by the applicant without excessive grades, inadequate drainage or other hazardous condition.
- B. The plan shall provide for the safe and attractive expansion of a structure on the site and guard against such conditions as would involve danger to health, safety, or property, by reason of undesirable and preventable elements of pollution. The plan shall provide that:
  1. smoke, soot, particulates and other discharge in to the air shall not exceed levels established under the State Ambient Air Quality Standards; and
  2. noise and vibrations at property boundaries shall not exceed levels as determined to be harmful to health and welfare under regulations adopted by the Environmental Protection Agency, under 42 USC Chapter 65, "Noise Control".

**7.02 Site Characteristics:**

The development shall conform to the extent appropriate to the natural topography of the site. Site clearing shall be kept at a minimum required for the expansion of buildings and improvements, taking into consideration the need for pedestrian and vehicular safety and the need for lights and air. Provisions shall be made for the protection of natural features and natural cover shall be retained to supplement required landscaping to the extent possible and reasonable.

**7.03 Construction Standards:**

Any proposed site improvements including parking areas shall be constructed in conformance with the Candia Subdivision Regulations, State of New Hampshire Standards Specifications for Road and Bridge Construction, and the Town Building Code.

- A. Driveway and Parking Areas: Application shall not be required to pave the existing or proposed area.
- B. Treatment of Disturbed Areas: All disturbed areas shall be covered, upon completion, with the finish treatment of grass, asphalt, concrete, etc., as proposed by the applicant.
- C. Seeding and Mulching: Any disturbed area to be seeded shall be prepared in conformance with the Candia Subdivision Regulations regarding topsoil, seeding, fertilizer, and mulching.
- D. Lighting: Soft lighting of the building exterior will be permitted, provided the light source is not visible and that it complements the architecture. If free standing light sources are used, the lights shall not constitute any annoyance to adjacent properties, or a hazard to street or highway driving.
- E. Signage: If signs are to be changes or a new sign installed, an approved application for sign permit from the Building Inspector will be required as part of the site plan proposal. Existing standards shall be observed:
  - 1. size:: maximum 40 square feet
  - 2. height: maximum 10 feet
  - 3. material: wood and/or stone masonry
  - 4. set-back: minimum of 50 feet
  - 5. lighting: shielded spot lighting
- F. Flashing Signs: No flashing or animated signs having visible or moving parts or intermittent lighting intended to create a visual effect are permitted (Section 8.04 of the Candia Zoning Ordinance).
- G. Parking spaces shall be of adequate size and number to satisfy both the present and future requirements of the site.

**7.04 Coordination of Streets, Parking, Loading, and Safety:**

- A. The public highways providing access to the site shall be sufficient and adequate for the safety of vehicles, pedestrians, and bicycles.
- B. All loading areas shall be designed so as not to interfere with other planned vehicular and pedestrian traffic of the site, and so as to provide adequate space and facilities.

**7.05 Screening:**

Expansion of storage areas, waste collection areas and service areas shall be fenced from on-site areas and from neighboring properties. Sites adjacent to the residential district shall be adequately screened

with plantings of live trees, shrubs, etc., approved in advance by the Planning Board through its designated agent.

#### **7.06 Storm Drainage:**

Storm drainage of the site shall be designed and provided and shall be based on a 5 year storm design flow. If the existing drainage system to which the site drainage system will be connected is inadequate, provisions shall be made for the retention and gradual release of storm water in order to meet the 25 year predevelopment storm design requirement.

#### **7.07 Groundwater Protection:**

The quality of groundwater is defined in RSA 485-c: 2 VIII shall not be adversely affected by the proposed development. The applicant shall certify that the proposed development does not violate the rules and regulations of Chapter 485-C Groundwater Protection Act with regard to groundwater and shall meet the following requirements:

##### **A. Groundwater Pollution Monitoring Devices:**

Any proposed or expanded site with the potential for contaminate leaching shall have provision for suitably designed and approved monitoring wells installed around the perimeter of the site. Said design and installation shall be approved by the Planning Board through its Town's Engineer at the expense of the applicant.

##### **B. Surface Drainage Control Measures:**

Any proposed or expanded site with the potential for surface run off degradation shall have provision for the containment and diversion of surface water runoff to suitable and approved catchment facilities. Said design and construction to be approved by Planning Board through its Town's Engineer at the expense of the applicant.

##### **C. Disclosures:**

Any application for site plan review which involves the proposed receiving, handling, storing or processing of any regulated substance (as defined by RSA 339-A:2) shall disclose this information as part of the application submission. Copies of all appropriate state permits as required by the NH DES for the proposed use shall be submitted to the Town of Candia Health Officer and Candia Fire Department as part of the site plan application. Site plan applications which involve property contaminated by hazardous or toxic materials (as defined by RSA 339-A:2) shall disclose such information as part of the application. If the Planning Board finds that a potential health risk or an environmental threat exists from a previous use or existing use of the site, then the Planning Board shall require that any environmental assessment that has been completed and submitted to NH DES shall be submitted to and reviewed by the Town Health Officer (or 3rd party consultant of Board's choice and applicant's expense) prior to any Planning Board action. (August 4, 2010)

#### **7.08 Disposition of Excavated Waste:**

All excavated waste, including boulders, rubble, and debris, shall be removed from the site unless the Planning Board authorizes otherwise.

#### **7.09 Impervious Cover:**

The area of the site to be finished with impervious cover shall be shown on the plan. The Board may request a reduction in the impermeable surface area and/or the construction of storm drains and catch basins where warranted by condition of soil, slope, and groundwater.

#### **7.10 Underground Petroleum Storage Tanks:**

Copies of permits obtained from the State of New Hampshire Water Supply and Pollution Control Division shall be required when underground storage tanks are proposed whether for private or

commercial use. Plans shall evidence conformance with WSPCD rule WS 411 before final plan approval.

## **SECTION VI: JOINT PROCEDURES PROVISIONS**

### **Article 8.00 Procedure When Subdivision Approval is Required:**

Application shall be considered a major site plan review.

#### **8.01 Procedure When Special Exception or Variance by the Board of Adjustment is Required:**

Application shall be considered a major site plan review.

#### **8.02 Procedure When Earth Excavation Permit is Required:**

Application shall be considered a major site plan review.

## **SECTION VII: MISCELLANEOUS PROVISIONS**

### **Article 9.00 Fines and Penalties:**

Any violation of these regulations may be made punishable as provided in NH Revised Statutes Annotated Chapter 676:17.

### **Article 10.00 Appeals:**

Any person aggrieved by an official action of the Board may appeal there from to the Superior Court as provided in RSA 677:15. (August 4, 2010)

### **Article 11.00 Active and Substantial Development or Building:**

In approving any application, the Planning Board may specify the threshold level of work which shall constitute “active and substantial development or building” for the purpose of determining the minimum amount of work required in order to satisfy the provisions of RSA 674:39. Active and substantial development, in the absence of a specific finding of the Planning Board shall mean the construction of one or more roads as shown on an approved and recorded site plat in accordance with the construction specifications contained within Article 19 of the Town of Candia Subdivision Regulations. Such road construction shall be completed through final wearing course, sufficient to cause eligibility for certificates of occupancy to be issued for structures on those lots fronting the road. This active and substantial development would thus entitle the site plan to the four-year exemption as provided under RSA 674:3.” (August 4, 2010)