

# **TOWN OF HENNIKER, NEW HAMPSHIRE**

## **CHAPTER 203**

### **SITE PLAN REVIEW REGULATIONS**

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## TABLE OF CONTENTS

### **ARTICLE I General Provisions**

- 203-1 Authority
- 203-2 Purpose
- 203-3 Applicability

### **ARTICLE II Home Businesses**

- 203-4 Definitions
- 203-5 Home Business Professional General Regulations
- 203-6 Home Business Retail/Service General Regulations

### **ARTICLE III Conceptual Consultation**

- 203-7 Conceptual Review Purpose
- 203-8 Parameters of Consultation
- 203-9 Information Requested to be Supplied

### **ARTICLE IV Site Plan Application Requirements**

- 203-10 Filing of Application
- 203-11 Contents of Application
- 203-12 Minimum Requirements
- 203-13 Additional Requirements

### **ARTICLE V Standards of Review**

- 203-14 Waiver of Requirements
- 203-15 Excavation, Grading, Filing, and Landscaping
- 203-16 Buffers
- 203-17 Parking and Loading
- 203-18 Access
- 203-19 Sidewalks
- 203-20 Lighting and Signs
- 203-21 Screening
- 203-22 Traffic
- 203-23 Water and Sewerage
- 203-24 Pedestrian and Bicycle Safety
- 203-25 Fire Safety
- 203-26 Harmonious Development
- 203-27 Control of Noise and Elements of Pollution
- 203-28 On-site and Off-site Improvements
- 203-29 Erosion and Sedimentation Control Plan
- 203-30 Flood Hazard Areas
- 203-31 Building Façade

**ARTICLE VI Procedures on Applications**

203-32 Receipt of Application; Notice

203-33 Determination of Completeness; Developments of Regional Impact;  
Notice of Public Hearing

203-34 Hearing on Complete Applications

203-35 Approval or Disapproval of Plan

**ARTICLE VII Inspection and Consultants**

203-36 Responsibility of Applicant for Costs of Consultants and Investigations

203-37 Escrow; Return of Unused Funds

**ARTICLE VIII Performance Security**

203-38 Requirement and Form

203-39 Amount

203-40 Extension of Time for Completion

203-41 Release of Security

## **ARTICLE I General Provisions**

### **203-1. Authority.**

These regulations are adopted pursuant to RSA 674:43 and 674:44 and the authority vested in the Planning Board by the Town of Henniker.

### **203-2. Purpose.**

The purpose of these regulations is to provide safe, attractive, harmonious and aesthetically pleasing commercial, industrial, and multi-family development within the town and its environs.

### **203-3. Applicability.**

- A. General. Subject to the exceptions stated below, these regulations apply to any of the following actions, regardless of whether the action includes a subdivision or re-subdivision of the site:
  - (1) Any new commercial, industrial, multi-family development of land (including, but not limited to, the construction of any building, any addition to a building, any other structure, or parking areas).
  - (2) Any Change of Land Use, as described below.
  - (3) Any expansion of the physical size of an existing non-residential land use.
  
- B. Definition. A "Change of Land Use" occurs when there is a change in the quality, character, or intensity of the use of a building or site, such that there is likely to be a noticeable impact on the neighborhood or the town. A Change of Land Use may occur even though the general classification of use remains the same and even if the proposed change does not involve construction. A Change of Land Use is determined from the most recent use to the proposed use. The standards of review listed in Article V of these regulations also indicate the kinds of impacts that would be considered in determining whether a Change of Land Use would occur.
  - (1) The following are examples of Changes of Land Use:
    - (a) A gas station succeeding a hardware store.

- (b) A professional office succeeding a retail store.
    - (c) A commercial parking lot succeeding unused land.
    - (d) A "pick-your-own" produce farm succeeding a hayfield.
  - (2) The following are examples that would not ordinarily be considered changes of use:
    - (a) One retail store succeeding another.
    - (b) A real estate office succeeding an insurance agency.
    - (c) One restaurant succeeding another.
  - (3) However, even in these examples, there may be a Change of Land Use if there is a substantial change in the character, quality, or intensity of use. For example, an adult nightclub succeeding a breakfast cafe is a Change of Land Use, even though both may be called "restaurants" because they serve food. Similarly, a used car dealership succeeding a flower shop is a Change of Land Use, even though both may be called "retail stores" because they sell goods to consumers. In contrast, a record store or clothing store succeeding a book store, or one pizzeria succeeding another, would not be a Change of Land Use, except in unusual circumstances.
  - (4) All determinations as to whether a project involves a Change of Land Use will be made by the Planning Board, or their designee. Such decisions do not require a public hearing.
- C. Exceptions. These regulations do not apply to, and Site Plan Review is not required for, the following:
- (1) Any development or expansion of a single-family or two-family dwelling or home business professional (as defined in 203-4 of these regulations) or of any use or building accessory to such uses.
  - (2) Any permitted change from another land use to a single-family or two-family dwelling, or to a home business professional
- D. Waiver of Site Plan Review. A waiver of Site Plan Review may be granted, at the Planning Boards discretion, if the proposed development conforms to the Henniker Zoning Ordinance and does not:

- (1) Require additional parking
- (2) Change the utilities
- (3) Affect abutters
- (4) Have an impact on the surrounding neighborhood, or
- (5) Require any State or Federal permits.

If the proposed development fails to satisfy any of the criteria in Article V, Standards of Review, the project will not be granted a waiver.

A waiver can be granted only at a public meeting of the Planning Board and requires a written request from the applicant, authorization from the property owner (if different), and a plan/sketch/map and description of the property and the proposed project, all of which must be submitted at least 1 week in advance of the next regularly scheduled Planning Board meeting. The information supplied must efficiently inform the Planning Board of the nature and scope of the proposed project and why a waiver is warranted.

E. Applicability for Multi-Use Buildings

- (1) Multi-Use buildings are defined as a building that has 2 or more businesses located in the building.
- (2) If there is a change in tenants within a multi-use building, which requires no building construction, the Building Inspector/Code Enforcement Officer will determine if there has been a Change of Use when a Certificate of Occupancy is applied for.

If, in changing tenants, the conditions outlined in 203-3 D are met, as determined by the Building Inspector/Code Enforcement Officer, no Site Plan Review is required

- (3) Vacancies of space within a multi-use building will be considered abandonment of a use or a non-use if they are vacant for more than 2 years.
- (4) When determining if there will be a Change of Use in a multi-use building, the entire building and its current and proposed tenants may be taken into consideration, not just the proposed new tenant.
- (5) If there is any new construction proposed for a multi-use building, except for routine maintenance and safety purposes, Site Plan Review will be required.

## **ARTICLE II Home Businesses**

### **203-4 Definitions**

- (A) Home Business professional – A use, that is not the primary use, by a resident to provide offices for his/her own profession within the primary residence or accessory structure.

Home business professional shall include dressmakers, crafters, artists, barber shops, beauty parlors, writers, teachers, musicians, lawyers, doctors, dentists, architects, engineers, or practitioners of any other profession or service which may be unobtrusively pursued.

- (B) Home business retail/service – A use, that is not the primary use, by a resident to provide home occupations that provide retail and/or service outlets for resale or previously manufactured goods and/or services to customers within the primary residence or accessory structure.

A clinic, mortician, animal hospital, kennel, and other of professions of similar nature shall not be considered a home business retail/service.

### **203-5 Home Business Professional General Regulations**

- (A) A home business shall employ a primary resident and can employ 1 other Full-time equivalent (FTE) person.
- (B) No outside storage of equipment will be allowed.
- (C) There shall be no display of goods or wares visible from the street.
- (D) The dwelling and lot occupied shall not be rendered objectionable to the neighborhood because of exterior appearance, emission of odors, gas, glare, smoke, dust, electrical disturbance, and/or hours of operation.
- (E) In a multi-family dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multi-family structure.
- (F) No Site Plan Review is required

## **203-6 Home Business Retail/Service General Regulations**

- (A) A home business retail/service shall employ a primary resident and can employ 2 other Full-time equivalent (FTE) persons.
- (B) The dwelling and lot occupied shall not be rendered objectionable to the neighborhood because of exterior appearance, emission of odors, gas, glare, smoke, dust, electrical disturbance, and/or hours of operation.
- (C) A home business retail/service shall not be allowed in a multi-family structure.
- (D) Sections 203-10, 203-11, and 203-12 of Site Plan Review are required.

## **ARTICLE III Conceptual Consultation**

### **203-7. Conceptual review purpose.**

To expedite Site Plan Review by identifying potential problems as early as possible, all prospective applicants are encouraged, but not required, to engage in a conceptual consultation as described below.

### **203-8. Parameters of consultation.**

The prospective applicant will describe the basic concept of the proposed development, and the Planning Board will offer suggestions to resolve problems that might arise during formal review. This consultation will not bind either the applicant or the Board, and statements made by members of the Planning Board will not be the basis for disqualifying the members or invalidating any subsequent action on the application.

### **203-9. Information requested to be supplied.**

It is recommended that the prospective applicant submit the following information in writing at least 1 week prior to the next regularly scheduled Planning Board meeting:

- (A) The location of the proposed development
- (B) Correct names and mailing addresses of owner(s) of record (and the applicant, if different)
- (C) A brief narrative description of the proposal
- (D) Any other information that the applicant feels will be helpful.

The Planning Board and the applicant may discuss proposals in general terms only, such as desirability of types of development under the town's Master Plan. Such discussion may occur without formal notice to the public, but may occur only at formal meetings of the Board when the discussion has been placed on the agenda. [See RSA 676:4, 11(a).]

**ARTICLE IV**  
**Site Plan Application Requirements**

**203-10. Filing of application.**

Every application for Site Plan Review must be filed in the Planning Board's office by mail or in person by the deadline set forth by the Planning Board (submission deadlines are posted at the Town Hall). If the application appears to satisfy the minimum requirements set forth in 203-12, the application will be placed on the agenda for a public hearing for the first meeting of the Planning Board scheduled to occur at least 15 days, and not more than 30 days, after the date the application is received.

**203-11. Contents of application.**

Any person or entity that proposes to engage in any development or other action that is subject to these regulations must file an application for Site Plan Review with the Planning Board by the posted deadlines, which are set by the Planning Board. Each application must include the information required by 203-12 and, if the Board so determines, by 203-13.

**203-12. Minimum requirements.**

Every application must include the following (see RSA 676:4, I(b)):

- A. A completed Site Plan Review Application showing the name and address of the applicant and/or designated agent.
- B. The names and addresses of all abutters to the property, as indicated in the town records as of a date not more than five days before the filing of the application, and of all holders of conservation, preservation or agricultural preservation restrictions (as defined in RSA 477:45).
- C. A narrative description of the proposed project explaining its purpose, its hours of operation, parking needs, lighting, employment figures, land use compatibility, aesthetics, school population projections, noise, and traffic impacts with respect to both the immediate area and the town in general.
- D. The name and business address of every licensed professional whose seal appears on any Plan submitted to the Board.
- E. A dated Site Plan, drawn to a scale not smaller than 100 feet to an inch, showing the following:
  - (1) Boundary dimensions and road frontages.

- (2) Bar scale and north arrow.
- (3) Distances of existing and proposed structures from boundaries and setbacks.
- (4) Existing and proposed structures with dimensions.
- (5) Names, width, and class of abutting roads.
- (6) Approximate location of structures on abutting properties if within 100 feet of the property line.
- (7) Location, dimensions, materials, and condition of existing and proposed parking areas, driveways, curbs, sidewalks, and fire lanes.
- (8) Location of natural features (such as wetlands, ledge, boulders, wooded areas) and one-hundred-year flood levels, if applicable.
- (9) Location of existing and proposed utilities (water, sewer, electric, gas, telephone, cable, etc.), wells, septic systems, and leach fields.
- (10) Type, size, and location of existing and proposed solid waste storage facilities and snow storage areas.
- (11) Location of all easements and rights-of-way.
- (12) Location, size, and nature of existing and proposed signs and outdoor illumination.
- (13) Location, size, and type of existing or proposed fencing, trees, ledges or other screening.
- (14) A locus map showing boundaries for the site, all parcels within 1,000 feet, the zoning district(s), and one-hundred-year flood levels (if applicable).
- (15) Plans of all existing and proposed buildings with their type, dimensions, location, setbacks, and first floor elevation(s) indicated.
- (16) The size and location of proposed water supply and sewage disposal facilities (e.g., private wells and septic systems) showing provisions for future expansion, if applicable, and also showing distances from existing water and sewage facilities on abutting properties if the proposed facilities are within 200 feet of abutting properties.

- (17) The location, layout and elevation of catch basins and other surface drainage features.
  - (18) The type, extent, and location of existing and proposed landscaping and open space areas indicating what existing landscaping and open space areas will be retained.
  - (19) The rights-of-way and names of all proposed streets, lanes, ways, or easements.
  - (20) A topographic plan with spot elevations where the land slope is greater than 5% and contour lines at two-foot vertical intervals on site, and off-site contours shown 100 feet beyond the site to be interpolated from United States Geological Survey (USGS) data.
- F. Any of the requirements of Subsection E may be waived by the Board. If the Board determines that an application is complete despite the omission of one or more of these requirements, that determination will constitute a waiver of the omitted requirements.

**203-13. Additional requirements.**

If, based on information contained in the application or otherwise received by the Board, the Board determines that the proposed project is sufficiently large or complex, or the impacts of the proposed project are of such significance that additional information is required, the Board may require the applicant to include any one or more of the following items in the application:

- A. A community facilities impact analysis for the following, where applicable:
  - (1) The wastewater treatment system, including flow estimates and assessments of existing capacity.
  - (2) The water system, including flow estimates and the capacity and assessment of existing potential water pressure.
  - (3) The traffic systems, including the impact of projected trips on flow characteristics and the impact of traffic on the immediate existing road structures and bridges. The traffic impact analysis will address internal and external traffic circulation and access, including adequacy of adjacent streets and intersections, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, existing or recommended traffic signals, pedestrian safety and access, off-street parking and loading, emergency vehicle access and necessary off-site improvements.

- (4) The school system
  - (5) The public safety providers, including Police, Fire, and Rescue Squad.
  - (6) Solid waste disposal
  - (7) Stormwater management systems, including flow and water quality.
  - (8) The recreational resources and the provisions of methods to meet proposed needs.
- B. Provisions for snow removal and disposal.
  - C. A plan showing the most recent soils information, as published by the Merrimack County Soil Conservation Service
  - D. Wetlands delineated by a licensed professional using the current Army Corps of Engineers Manual
  - E. An erosion and sediment control plan
  - F. A fiscal impact study addressing the effects of the proposed project on the town's economy and finances, including, but not necessarily limited to, town expenses, tax revenue, property values, employment and impacts on existing businesses.
  - G. A noise study.
  - H. A lighting study
  - I. Copies of any existing or proposed easements, deed restrictions, or other similar documents pertaining to the Site Plan.
  - J. Such other documents, plans, studies or information as the Board may require to determine the impact of the project.
  - K. Copies of all applicable state and federal applications and/or permits.

## **ARTICLE V Standards of Review**

### **203-14. Waiver of requirements.**

All Site Plans must satisfy the following requirements, except that the Planning Board may waive any requirement if, in the opinion of the Planning Board, the waiver would not be contrary to the spirit and intent of these regulations. [See RSA 674:44, III(e).]

### **203-15. Excavation, grading, filling and landscaping.**

- A. Site preparation and construction should fit the natural and man-made environment with the least amount of impact. Stripped topsoil is to be reused where needed on the site, if possible. The site must be adequately landscaped. Whenever possible, landscaping will consist of natural, undisturbed vegetation. If excavation material is not being reused on site, an Excavation Permit is required.
  
- B. Grading and filling must be conducted in a manner that minimizes the alteration of surface and subsurface drainage to, toward or across abutting properties, and is to be conducted in accordance with the provisions of RSA 485-A:17, written proof of which may be required.

### **203-16. Buffers.**

Adequate provisions must be made to ensure that a proposed Site Plan has an adequate buffer from other properties in order to preserve property values and the aesthetic values of properties.

To promote the aesthetic quality of streets, a street landscape strip can be required for all commercial and industrial Site Plans, where appropriate.

Side and rear landscape strips can be required for developments to promote proper visual separation and adequate buffering between adjoining properties. Parking areas, driveways, and buildings shall not be located within any required Side or Rear Landscape Strip.

### **203-17. Parking and loading. (Amended 7/13/11)**

Off-street parking must be provided as detailed below. Parking must be located so as to ensure vehicle and pedestrian safety.

Sufficient off-street loading and unloading space must be provided, including off-street areas for maneuvering of anticipated trucks and other vehicles. Loading and maneuvering spaces must be designed to ensure the safety of vehicles and pedestrians on the site. Maneuvers for parking and loading or unloading spaces must not take place on a public street.

Parking and loading areas are to be constructed so as to minimize dust, erosion, and runoff conditions that would have a detrimental effect on neighboring properties and rights-of-way.

### **Parking Requirements:**

*Parking Facilities* -- Required off-street parking areas for three or more automobiles consisting of individual spaces marked; it shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and un-parked without moving another.

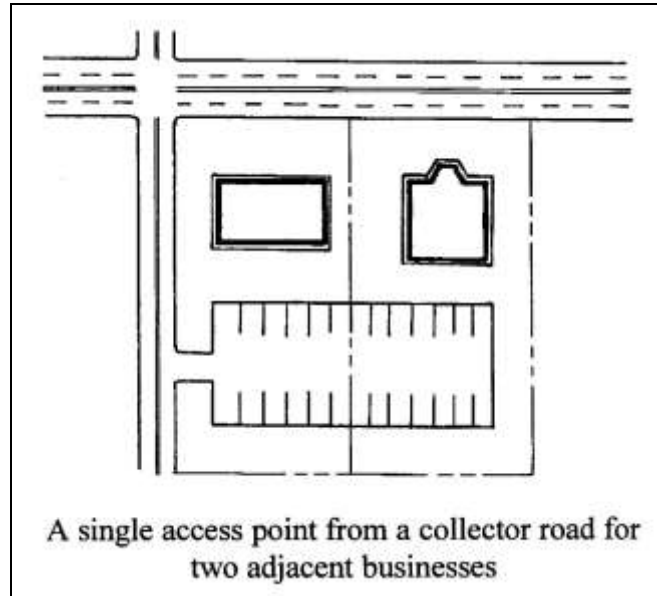
The following standards shall be followed for proposed Parking Facilities:

- *Parking Space:* An area that is a minimum of 9 feet wide by 18 feet long or more suitable for use of parking one motor vehicle, together with reasonable access.
- *Residential Uses:* Two parking spaces must be provided on the premises for each dwelling unit constructed.
- *Commercial/Professional use:* One parking space shall be provided for each 500 square feet of commercial/professional floor space.
- *Bed & Breakfast:* There shall be a minimum of one parking space per habitat unit, plus a minimum of one space per employee.
- *Sexually Oriented Businesses:* Parking shall be one space per patron based on the occupancy load as established by local and state fire, building or health codes, whichever is greater, plus one space per employee on the largest shift

### **203-18 Access**

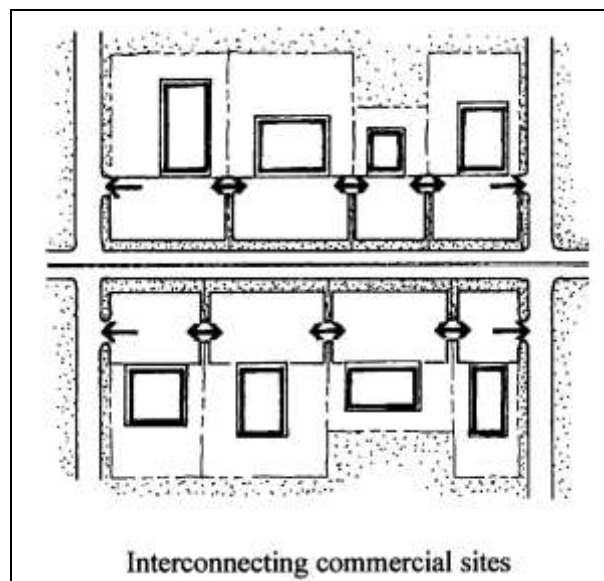
Access management techniques should to be employed, where appropriate, in order to alleviate traffic congestion and inefficient systems currently in place.

- A. **SHARED ACCESS POINTS:** The Planning Board may require new site plans on heavily traveled roadways to have shared access points with abutting parcels. This will reduce the number of driveways (curb cuts) on major roadways, and improve traffic movement and safety conditions.



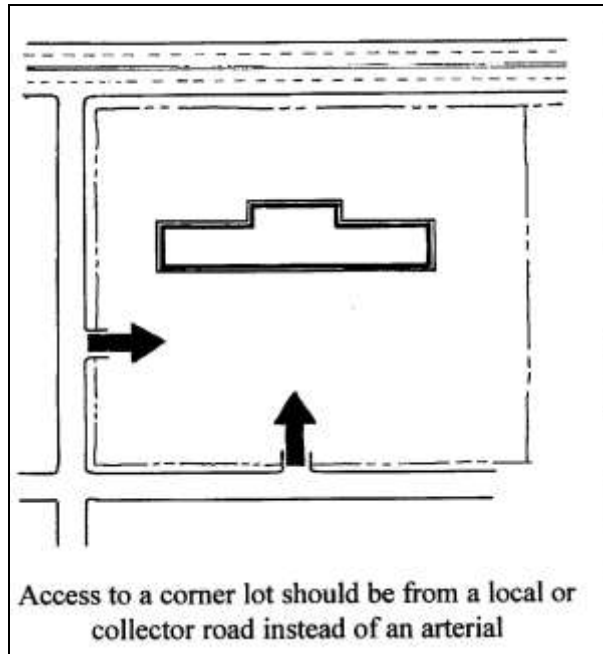
Example 1

- B. **INTERCONNECT SITES:** The Planning Board may require developers to provide rights-of-way to connect commercial and multifamily sites, thus creating parallel access roads along major roadways, which will help to reduce congestion, and slow the need to expand highway capacity.



## Example 2

- C. CORNER LOT ACCESS POINTS: The Planning Board may require corner lots fronting a major road to be accessed from the adjacent local or collector road, not the major roadway. This will reduce congestion and improve safety.



Example 3

### 203-19. Sidewalks.

The construction of all sidewalks will comply with all applicable town, state, and federal regulations and may be required at the discretion of the Planning Board

### 203-20. Lighting and signs.

Any lighting used to illuminate an off-street parking area, sign, or other structure, should be arranged as to deflect light away from any adjoining properties or from the public streets. Direct glare should not be permitted.

In order to minimize glare and other adverse effects, all exterior lighting fixtures shall be of a design that provides for luminaire cutoffs with a total cutoff at an angle of seventy-five degrees from the vertical. Further, all fixtures shall be positioned and/or installed in such a fashion as to prevent unwanted incidental illumination of abutting properties and streets.

Any light or combination of lights from a commercial or industrial development that cast light on a public street shall not exceed one (1) foot-candle (meter reading) as measured from the centerline of the street. Any light or combination of lights, which

cast light on a residential property shall not exceed 0.1 foot candles (meter reading) as measured from the residential property line.

Signs must conform to Chapter 133 of the Zoning Ordinance.

### **203-21. Screening.**

New commercial and industrial structures and uses in town should be properly screened from abutting developments so as not to diminish property values and the visual character of the neighborhoods.

Wherever feasible, storage areas, including solid waste storage containers, must be screened throughout the year from on-site or adjoining parking and neighboring properties.

All rooftop mechanical equipment should be screened from view with either building walls or roof forms. All sides visible to the public and abutters should have screen materials.

The ground level view of all mechanical equipment accessory to the building (not vehicles) with a footprint of fifty square feet or greater should be fully screened from contiguous properties and adjacent streets.

Screening should be accomplished by architecturally integrating the equipment into the principle structure or by surrounding it with materials compatible with the principal structure. The use of either fencing or hedges as a screen is also permitted, so long as it is high and dense enough to screen the area in question.

### **203-22. Traffic.**

Access to public streets will meet the standards of all applicable town, state, and federal regulations and will satisfy safety concerns. The Planning Board may obtain a recommendation from the Henniker Highway Safety Committee as a part of the approval process of the Site Plan, but the Planning Board reserves final judgment on this issue.

The applicant may be required to pay for off-site improvements necessitated by the development's traffic impact. Adequate provisions must be made to minimize adverse traffic impacts, such as, but not limited to, volume, congestion, and noise.

Prior to construction of any driveway entering a Town Road, the Board of Selectmen shall approve the Driveway Permit Application. (4-14-10)

### **203-23. Water and sewage.**

Water supply and sewage disposal systems must be sized to meet the needs of the proposed use under all applicable town, state, and federal regulations. The receipt of any necessary state or federal approvals will be a condition for the approval of the Site Plan.

**203-24. Pedestrian and bicycle safety.**

Whenever applicable, adequate provisions must be made to ensure pedestrian and bicycle safety and access. This could include the inclusion of sidewalks, walking paths, bike lanes, bike paths, and/or bike racks at the proposed facility/site.

**203-25. Fire safety.**

Adequate provisions must be made for fire safety, prevention, and control. The Board may require the review and approval of the Site Plan from the Henniker Fire Department and/or Building Inspector/Code Enforcement Officer before approval can be given by the Planning Board

**203-26. Harmonious development.**

The development's size, shape, design, and other features will not have a significant adverse impact on neighboring land uses or on the aesthetics or harmonious development of the neighborhood or the town.

**203-27. Control of noise and elements of pollution.**

Adequate provisions will be made to minimize or control elements of pollution, such as smoke, soot, odors, particulates, or any other discharge into the environment, which might prove harmful or offensive to persons, structures, neighboring properties, or the natural environment.

Adequate provisions will be made to minimize or control noise.

**203-28. On-site and off-site improvements.**

- A. As a condition to approval of an application, the Planning Board may require the construction, installation, or improvement, on- or off-site, of streets, sidewalks, curbing, water, sewer and other utility mains, piping, connections or other facilities, which it deems reasonably necessary to

accommodate the development. All improvements will comply with all town, state and federal regulations. An application may be conditionally approved subject to the completion of such improvements and installations.

- B. In lieu of completion of such improvements and installations prior to the final approval of an application, the applicant may be required to provide performance security in accordance with Article VII, to secure its obligations to complete such improvements or installations. [See RSA 674:44, IV.]

### **203-29. Erosion and sedimentation control plan.**

Adequate provisions must be made to control erosion and discharge of sedimentation from the site both during and after construction. All erosion and sedimentation measures will comply with all applicable town, state, and federal regulations.

### **203-30. Flood hazard areas.**

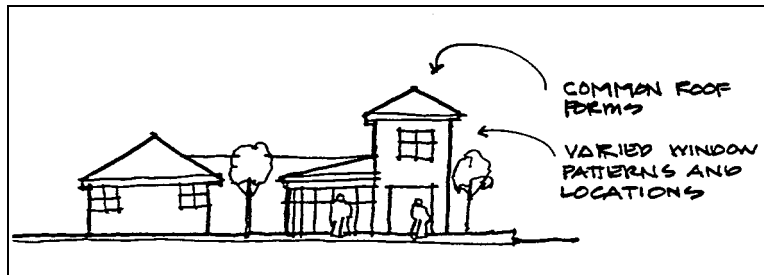
If a proposed development is determined to be in a flood-prone area, the Site Plan must be consistent with the need to minimize flood damage and must comply with all applicable town, state, and federal regulations.

### **203-31 Building Façade**

- A. In order to protect the aesthetic character of the community and to improve the quality of new development constructed within Town, building façade may be regulated at the discretion of the Planning Board.
- B. All Site Plans must ensure that they are consistent with or improve the architectural character of the Town.
- C. New roof forms should be compatible with the roof forms of adjacent structures where appropriate, by duplicating the shape, pitch, and materials.
  - 1. A pitched roof should be provided for structures with a building footprint of 5,000 square feet or less in order to have new development better fit with the rural and residential character of the community.
  - 2. Common roof forms should be required to be duplicated on the primary structure whenever possible.

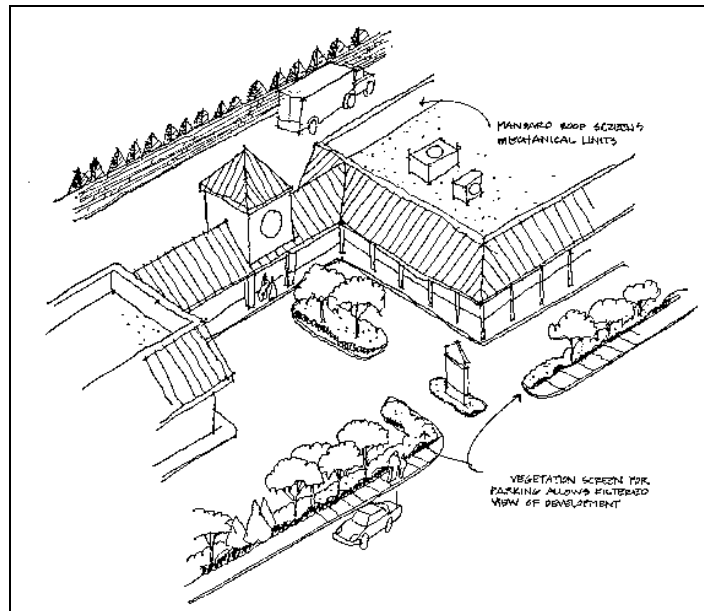
3. For structures with a footprint larger than 5,000 square feet, flat roofs should be permitted, provided that mansard roof is employed.
4. Varied offsets, roof heights and forms, and window placement should be incorporated into all new structures, or additions to existing structures.
5. Refer to sample graphics below for examples regarding common roof form and mansard roofs.

### Common Roof Form Graphic



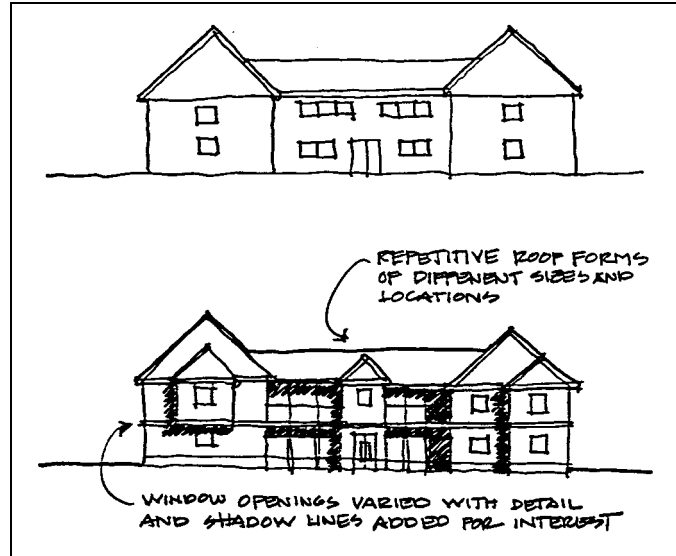
Example 1

### Mansard Roof Graphic for Structures with footprints of 5,000 sf and larger



Example 2

## Varied Offsets, Roof Heights, and Window Graphic



Example 3

**ARTICLE VI**  
**Procedure on Applications**

**203-32. Receipt of application; notice.**

- A. Upon receipt of an application for Site Plan Review, a preliminary determination of the completeness of the application will be made. If the application appears to satisfy the minimum requirements set forth in Article IV 203-12, the application will be placed on the agenda for a public hearing for the first meeting of the Planning Board scheduled to occur at least 15 days, and not more than 30 days, after the date the application is received and a preliminary determination for completeness has been made. [See RSA 676:4, I(b).]
- B. When any application is scheduled for a public hearing before the Planning Board, the clerk or other designee will send notice by certified mail to the applicant, all abutters, all holders of conservation, preservation or agricultural preservation restrictions, and every licensed professional whose seal appears on any Plan submitted with the application, stating the date upon which the application will be formally submitted to the Board. Notice will be mailed at least 10 days before the meeting at which the application is to be submitted. Notice to the public will be given at the same time by publication in a newspaper of general circulation in the Town of Henniker and/or by posting such notice as required by law. The notice will include a general description of the proposed project and will identify the applicant and the location of the project. [See RSA 676:4, I(d).]
- C. All costs of notice, whether mailed, posted or published, will be paid by the applicant prior to any public hearing, and no application will be deemed complete until such costs are paid.
- D. The Planning Board may choose to arrange a visit to the site with the applicant at any time after the filing of the application. The applicant will cooperate by allowing access to the site at a time reasonably convenient to both the applicant and the Board. All applications are subject to the applicant allowing access to the property to the extent reasonable and necessary to permit proper review of the application.
- E. Any site inspection at which a quorum of the Planning Board is present will be deemed a public meeting subject to all provisions of the Right-to-Know Law, RSA 91-A.

**203-33. Determination of completeness; developments of regional impact; notice of public hearing.**

- A. Formal submission of the application will be made at the meeting of the Planning Board scheduled for such submission pursuant to Article IV, 203-11. Upon receipt of the application at that meeting, the Planning Board will determine whether the application is complete [RSA 676:4, I(b)].

An application will be deemed incomplete if it does not satisfy the minimum requirements of Article IV, 203-12, or if the Board determines that additional information is required as provided in Article IV, 203-13, and the application does not contain such additional information. If possible, the applicant will be given an opportunity at that meeting to provide any additional information required to make the application complete.

If the Board determines that all required information has been provided, the application will be deemed complete.

- B. At the same time, the Board will determine whether the application, if approved, would result in a Development of Regional Impact, as defined in RSA 36:55. If the determination is in the affirmative, the Board will comply with the procedures set forth in RSA 36:57.
- C. If the Board determines that the application is incomplete and the applicant fails at that meeting to provide the additional information required to make the application complete, the Board will notify the applicant in writing within 72 hours of the reasons for the determination of incompleteness. [RSA 676:3, II; 676:4, I(c)(1)].
- D. The Board will not be deemed to have received a completed application sufficient to invoke its jurisdiction until it determines that the application is complete. If the Board determines that the application is complete, it will either immediately proceed to hold a public hearing on the application, if notice has previously been given that a public hearing may commence at that meeting; or schedule a public hearing on the application not more than 30 days after the determination of completeness. [RSA 676:4, I(c)(1)]

### **203-34. Hearing on complete applications**

At the public hearing scheduled in accordance with the preceding section, the Planning Board will hear testimony from the applicant and any consultants, experts, and agents employed by the applicant. The Planning Board will also allow questions by members of the Board, questions from abutters and other Henniker residents, and statements in favor of or in opposition to the project, in person or in writing, by abutters, holders of conservation, preservation or agricultural preservation restrictions, and other Henniker residents, in accordance with the Board's bylaws. Any person with standing to speak at the hearing may be represented by an attorney or other authorized agent, and the attorney or agent will be permitted to speak on such person's behalf.

[See RSA 676:4, I(e).]

### **203-35. Approval or disapproval of plan.**

The Planning Board must act to approve, conditionally approve, or disapprove the Site Plan within 65 days after the determination of completeness under Article V, 203-12. The Planning Board may apply to the Selectmen for an extension, not to exceed an additional 90 days, before acting on the application. The applicant may waive the requirement of the Planning Board action within these time periods and consent to any extension that is mutually agreeable. [See RSA 676:4, I(c)(1),(f).]

- A. Approval. The Planning Board will approve the Site Plan if all of the requirements in Article V are determined to be satisfied or waived.
- B. Conditional approval.
  - (1) The Board may grant "conditional" approval of the Site Plan if all of the requirements of Article V will be satisfied or waived upon the fulfillment of certain conditions, but only when the conditions are:
    - (a) Minor Site Plan changes, whether or not imposed by the Planning Board as a result of a public hearing, if compliance with such changes is administrative and does not involve discretionary judgment;
    - (b) Conditions which are in themselves administrative and involve no discretionary judgment on the part of the Board;  
or
    - (c) Conditions regarding the granting of permits or approvals by other boards or agencies.

- (2) All other conditions will require a hearing and notice as provided in Article VI, 203-32, except that additional notice will not be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session are made known at the prior hearing. [See RSA 676:4, 1(i).]
- C. Disapproval. The Planning Board may disapprove a Site Plan that is determined not to satisfy all of the requirements of Article V. In the event of disapproval, the ground or grounds for the disapproval will be adequately stated in the records of the Planning Board and will be provided in writing to the applicant within 72 hours.

**ARTICLE VII**  
**Inspections and Consultants**

**203-36. Responsibility of applicant for costs of consultants and investigations.**

Throughout the process of consideration of the Site Plan application, the Planning Board may consult with licensed professionals and other consultants. The applicant will be required to pay all fees incurred by the Planning Board for such consultants and for any investigations, studies, or reviews in connection with the Site Plan application. The Planning Board may require the applicant to pay the estimated costs for such consultants and investigations in advance at one or more times after the Site Plan application is filed. The applicant will be notified in writing of this determination and the amount of the estimated costs.

**203-37. Escrow; return of unused funds.**

Any amounts paid in advance will be deposited in an escrow account with the town and will be drawn upon as necessary to pay such expenses. Upon completion of the review process, any unused funds in excess of \$5 will be returned to the applicant. Failure of the applicant to deposit such funds with the town within 15 days after the date of the written notice will be a sufficient basis for the Planning Board to deny the application.

## **ARTICLE VIII Performance Security**

### **203-38. Requirement and form.**

The Board may require performance security to ensure that the project as a whole or in phases, including any required off-site improvements, is completed in conformance with the approval within a period not to exceed three years beyond the proposed completion date. The applicable time period will be expressed in the security, and the security must remain valid and available until drawn upon by the town or released in accordance with 203-41 below.

The security will be in a form and amount prescribed by the Planning Board, with a surety acceptable to the Planning Board, and will otherwise be satisfactory to the Planning Board. The security will be in a form of a bond, irrevocable letter of credit, or certified or bank check properly endorsed to the Town of Henniker.

### **203-39. Amount.**

If the Planning Board requires performance security, the applicant will file with the Planning Board a detailed estimate of all costs of the project, including required off-site improvements. The Planning Board may, in its discretion, have the estimate reviewed by a professional consultant, at the expense of the applicant. The Planning Board, after considering the estimate and other information it deems pertinent, will determine the amount of the performance security required.

### **203-40. Extension of time for completion.**

In the event of failure to complete a project within three years after approval, the Planning Board may extend the time for completion when the reasons for delay were unforeseeable and beyond the reasonable control of the applicant. The applicant must request an extension from the Planning Board, in writing, no later than 2 months before the deadline for the approval time is coming to an end. Any such extension will be granted in writing by the Planning Board and will be granted only after ensuring the validity and availability of the security for such extension. The granting of any extension will be solely at the discretion of the Planning Board.

### **203-41. Release of security.**

The performance security will not be released until the Planning Board, Town Building Inspector, Town Road Agent, Town consulting engineer, and/or other necessary persons has certified after inspection that the project, including required off-site improvements, has been completed in accordance with the approved Site Plan.

All securities will be held by the Board of Selectmen. The Board of Selectmen will not draw upon or release any security until they receive notice, authorized by a vote of the Planning Board, stating the purpose and amount to be released. The Board of Selectmen will enforce the performance security by all appropriate legal and equitable remedies.

## **ARTICLE IX Miscellaneous Provisions**

### **203-42. Payment of required fees and expenses.**

Every applicant for Site Plan Review must pay the required fee at the time of filing the application. In addition, the applicant will be responsible for all postage expenses incurred by the Board for notices and other mailings related to the application, all administrative expenses and all consultant and investigation fees as provided in Article VI. [See RSA 674:44, V; RSA 676:4, I(g).]

### **203-43. Recording of site plan.**

The Site Plan map may be recorded at the Merrimack County Registry of Deeds, at the discretion of the applicant. If the applicant chooses to have the Site Plan recorded, it will be recorded by the applicant. A copy of the recorded plan must be filed with the Planning Board. No plan may be recorded until it has been approved and signed by the Planning Board. If the approval is subject to conditions not apparent on the face of the Plan, such conditions will be recorded, and reference to such recording will be made on the Site Plan. The applicant will be responsible for all recording fees, postage, and copy expenses.

Three final, signed copies of the Site Plan need to be submitted to the Town, regardless of whether or not the Site Plan is recorded with the Registry of Deeds.

### **203-44. Joint hearings.**

The Planning Board may hold a public hearing on Site Plan Review in conjunction with a Subdivision hearing, if both are required for the proposal. The Planning Board may, on its own initiative or at the request of the applicant or of another Land Use Board, hold a joint hearing with such other Land Use Board, if the subject matter of an application is within the responsibilities of both Boards. The procedures for such joint meetings relating to testimony, notice of hearings and filing of decisions will be consistent with the procedures established by these regulations. The Planning Board Chair will chair such meetings. [See RSA 676:2, I.]

**ARTICLE X**  
**Administration and Enforcement**

**203-45. Administration by Planning Board; enforcement by Selectmen and/or Building Inspector/Code Enforcement Officer**

These regulations will be administered by the Planning Board. It will be the duty of the Board of Selectmen and/or Building Inspector/Code Enforcement Officer to enforce the Site Plan Review regulations. The Board of Selectmen and/or Building Inspector/Code Enforcement Officer, in enforcing the regulations, will act upon complaint or information from the Planning Board or other persons, and will take such action as the Planning Board requests. The Board of Selectmen and/or Building Inspector/Code Enforcement Officer may obtain an injunction, mandamus, abatement or other appropriate action to prevent, enjoin, abate or remove any construction, alteration, or reconstruction which is not in compliance with these regulations.

**203-46. Violations and penalties.**

Any person who violates these regulations will be guilty of a misdemeanor if a natural person, or guilty of a felony if any other entity, and will be subject to a civil penalty not to exceed \$100 for each day that the violation is found to continue after the conviction date or after the date on which the violator receives written notice of the violation from the Board of Selectmen and/or Building Inspector/Code Enforcement Officer, whichever is earlier. Enforcement of these regulations is subject to all of the provisions of RSA 676:15 to 676:17-b.