

TOWN OF HOPKINTON
ZONING BYLAW

ARTICLE XX

Site Plan Review

**[Added 4-12-1982 ATM, Art. 47; amended
6-17-1987 STM, Art. 12; 4-17-1991 ATM,
Art. 61; 5-4-1993 ATM, Art. 22; 5-2-1994 ATM, Art. 20;
5-6-1996 ATM, Art. 35; 5-5-2003 ATM, Art. 29, 5-3-2004 ATM, Art. 30]**

~ 210-133. Purpose.

The purpose of this Article is to protect the health, safety, convenience and general welfare of the public by providing a comprehensive review procedure of plans for uses and structures which may have impacts on traffic, services and utilities, environmental quality, water resources, drainage and community character. The construction, alteration, enlargement or reconstruction of buildings that are to be used exclusively for residential purposes is exempt from the provisions of this article. Any use or structure, or expansion thereof, referred to in MGL c. 40A, ~ 3, is not exempt from the provisions of this article, provided any of the criteria contained in ~ 210-134 also applies.

~ 210-134. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MAJOR PROJECT -- Any construction project which requires new construction or will result in a change in the outside appearance or a change of use of a building or buildings or premises, and which includes one or more of the following:

- A. Construction of 1,500 or more square feet of gross floor area; or
- B. An increase in gross floor area by 50% or more which results in gross floor area of at least 1,500 square feet; or
- C. Grading or regrading of land to planned elevations and/or removal or disturbance of the existing vegetative cover, over an area of 5,000 square feet or more; or
- D. Construction, enlargement or alteration of a parking area containing 25 or more parking spaces.

MINOR PROJECT -- Any construction project or change of use, not included within the definition of a "major project," which includes one or more of the following:

- A. A change in the outside appearance of a building or premises, visible from a public or private street, requiring a building permit; or
- B. Construction, enlargement or alteration of a parking area containing five or more parking spaces.

~ 210-135. Procedure. [Amended 5-3-2004 ATM, Art. 30]

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- A. An applicant for site plan review shall file with the Planning Board an application and submission materials as required by the Site Plan Review Submission Requirements and Procedures adopted by the Planning Board and filed with the Town Clerk.
- B. The Planning Board shall, within five days of receipt of a site plan review application, transmit copies of the application and the site plan to the Director of Municipal Inspections, Conservation Commission, Board of Health, Design Review Board, and Director of Public Works for comments and recommendations.
- C. The Planning Board shall hold a public hearing within 65 days of the filing of any application for a major project and shall file a decision within 90 days of the close of the hearing. The Planning Board shall hold a public hearing and shall file a decision on an application for a minor project within 60 days of the receipt of the application. Notice of the time, place, and subject matter of the public hearing shall be given by the Planning Board, at the expense of the applicant, to the applicant and to all owners of land abutting the land being the subject of such application as appearing on the most recent tax list on file at the Assessors Office. In addition, in the case of major project site plan review, the Planning Board shall also give notice of the time, place, and subject matter of the public hearing, at the expense of the applicant, by advertisement in a newspaper of general circulation in the Town, once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing. The time within which the Planning Board must act on an application may be extended upon mutual agreement in writing between the Planning Board and the applicant. Failure to act within the time limitations established in this article shall be deemed constructive approval of the application.
- D. Final action, which shall be a "Decision of Site Plan Review" that is filed with the Office of the Town Clerk and the Director of Municipal Inspections, shall consist of either:
 - (1) A written approval of the application, including a finding and determination that the proposed project will constitute a suitable development based on conformance with the criteria contained in ~~ 210-136 and 210-137 below; or
 - (2) A written denial of the application stating the reasons for such denial.
- E. A majority vote of a simple majority of the membership of the Board shall be sufficient to adopt a Decision of Site Plan Review.
- F. Any person aggrieved by a Decision of Site Plan Review by the Planning Board may appeal such Decision to the Board of Appeals within 30 days of the date of the Decision as provided for in ~~ 210-146 to 210-148 of this article, and in MGL c. 40A, ~~ 8 and 15. All Decisions of Site Plan Review issued by the Planning Board shall include a brief notice of such rights of appeal.

~ 210-136. Decision criteria.

The Planning Board shall approve an application for site plan review if it finds that:

- A. The site plan conforms to the purpose and intent of this article and proposes an appropriate and beneficial development of the site;

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- B. The surrounding area will be protected from the proposed use on the site by provision of adequate surface water drainage, buffers against light, sight, sound, odors, dust and vibration and the preservation of adequate light and air;
- C. The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas and public ways is ensured;
- D. Environmental features of the site and surrounding areas are protected;
- E. The site plan is consistent with the Master Plan;
- F. The proposed building scale and/or site development plan is consistent with the surrounding neighborhood; and
- G. All variances or special permits required from the Board of Appeals have been granted.
- H. Notwithstanding the above, regulation of uses and structures referred to in MGL c. 40A, ~ 3 shall be limited to the extent allowed under said section of the General Laws.

~ 210-137. Conditions of approval; building permits.

Site plan approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary, and any construction, reconstruction, alteration or addition shall be carried on only in conformity with such conditions, modifications or restrictions and in conformity with the application and site plan. An order of conditions under MGL c. 131, ~ 40, which imposes conditions inconsistent with a site plan approval, shall require a revision of the site plan. A request for such revision must be submitted to the Planning Board. For any construction project or change in use that requires site plan review, no building permit may be issued unless and until the applicant has complied with the provisions relating to site plan review under this article and the conditions, modifications, and restrictions contained within the Decision of Site Plan Review are referenced to and incorporated in, and made an express condition of, such building permit. In the discretion of the Director of Municipal Inspections, recording of a certification of the Town Clerk and the Decision of Site Plan Review at the Registry of Deeds may be included as an additional condition precedent to the issuance of any building permit (see MGL c. 40A, ~ 11, par. 4).

~ 210-138. Performance guarantee.

As a condition of site plan approval, the Planning Board may require that a performance bond, secured by deposit of money or negotiable securities in the form selected by the Planning Board, be posted with the Town to guarantee completion of improvements to be made in compliance with the plans submitted and approved hereunder. The Board may also require that an amount be included for land restoration not having to do with the construction of improvements. The amount of security shall be determined by an estimate from the applicant's engineer which may be confirmed or increased by the Board. The Town may use the secured funds for their stated purpose in the event that the applicant does not complete all improvements in a manner satisfactory to the Board within two years from the date of approval, or the final date of the last extension of such approval, if any.

~ 210-139. Duration of approval.

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Site plan approval for a minor or major project shall become void two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in MGL c. 40A, §§ 8 and 17, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. In such case a request for extension of the date of completion must be submitted to the Planning Board.

~ 210-140. Fees.

Site plan review fees shall be governed and set by the Planning Board and shall be assessed to the owner and/or the applicant. Such fee may include a deposit for review by a consultant selected by the Town.