LEBANON PLANNING BOARD DEVELOPMENT REGULATIONS SUBCOMMITTEE
MONDAY, DECEMBER 1, 2025 - 5:30 PM
MEETING ROOM 3, CITY HALL OR REMOTE VIA VIRTUAL PLATFORM LEBANONNH.GOV/LIVE

TO PARTICIPATE IN THIS MEETING, PLEASE JOIN LIVE VIA MICROSOFT TEAMS OR CALL 929-229-9356 (ACCESS CODE: 334 868 535#). IF YOU HAVE TROUBLE ACCESSING THIS MEETING, PLEASE EMAIL TIM CORWIN.

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1. Call to Order

2. Approval of Minutes

A. July 7, 2025

3. Study Items

A. Minor Site Plan Review: Site Plan Review Regulations, Section 3.2

B. Landscaping of Parking Areas: Site Plan Review Regulations, Section 6.2.E

C. Pattern Zones Overlay District Shading and Buffers: Zoning Ordinance, Section 411.7

D. Maximum Off-Street Parking Requirement: Zoning Ordinance, Section 607.3

E. Phased Developments, Plan Expiration, and Exemption Periods: Site Plan Review Regulations, Sections 4.8, 4.9, 4.10, 4.11 (new), 5.1, and 8.4

F. Electric Vehicles: Zoning Ordinance, Section 607.8 and Site Plan Review Regulations, Article VI

G. Exemptions from Subdivision Review — Condominium Conversions and Cottage Developments: Subdivision Regulations, Section 6.

4. Adjournment

The order of agenda items is subject to change.

Meetings are open for in-person and remote attendance. Members of the public who wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupt virtual or phone connection(s), the meeting will continue without remote access capabilities.
Any person with a disability who wishes to attend this public meeting and needs additional accommodation, please contact the ADA coordinator at City Hall by calling 603-448-4220 at least 72 hours in advance so that the City can make any necessary arrangements.

DRAFT

LEBANON PLANNING BOARD DEVELOPMENT REGULATIONS SUBCOMMITTEE
MEETNG ROOM 3, CITY HALL OR
REMOTE VIA MICROSOFT TEAMS
LEBANONNH.GOV/LIVE
MONDAY, JULY 7, 2025 5:30PM

MEMBERS PRESENT: Andrew Faunce, Richard Ford Burley, Eric Stacy, Patrick Kennelly

MEMBERS ABSENT: None

STAFF PRESENT: None

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1. CALL TO ORDER

Chair Faunce called the meeting to order at 5:45 pm.

2. APPROVAL OF MINUTES – December 3, 2020

No members present were able to vouch for the accuracy of the December 3, 2020 minutes. The decision was made to postpone approving the minutes until after discussing the matter with Staff.

3. STUDY ITEMS

A. Review potential amendments to Subdivision Regulations

14.4 Issuance of Building Permits and Certificates of Occupancy

The members of the Subcommittee recommended deleting 14.4.C, and will take the matter to the full Board for discussion and action.

9.5.C.2 Submission Requirements and 13.4.A Lots/Lot Area/On-Site Septic System Requirements

The members of the Subcommittee recommended adding "or NH Permitted Septic Designer" in several instances after "Certified Soil Scientist" in 9.5.C.2 and 13.4.A and will take the matter to the full Board for discussion and action.

13.8.A.1 Utilities

The members of the Subcommittee required more information before recommending changes. Member Ford Burley will consult with the City Engineer before the next Subcommittee meeting.

B. Review potential amendments to the Site Plan review Regulations

Section 4.10.B – Expiration of Site Plan Approval

The members of the Subcommittee recommended striking the words "up to" and will take the matter to the full Board for discussion and action.

6.2 Landscaping Standards and 6.2.E Landscaping of Parking Areas

The members of the Subcommittee discussed the potential need for changes to accommodate vehicle sales inventory storage and display and decided to take no action in the matter.

C. Review potential amendments to the Rules of Procedure

The members of the Subcommittee discussed including the appeals process for applicants somewhere in the Rules of Procedure document. It was decided that it would potentially make more sense to add to Section 4.8 of the Site Plan Review Regulations, "Procedure for Site Plan Review," based on the relevant NH RSAs. Draft language will be prepared by Member Ford Burley in advance of the next meeting of the Subcommittee.

D. Discussion of process for identifying and reviewing other potential amendments to Development Regulations

Members discussed the item and, among other things, determined a need to check with Staff to set out pre-meeting timelines for adding to the Subcommittee agenda.

Members also discussed formalizing the updating of regulatory documents based on Subcommittee feedback quarterly. The process would be that, once per quarter, the Subcommittee would craft amendments, then take those amendments to the full Board for approval, after which Staff would update the public-facing documents.

4. FUTURE AGENDA ITEMS

Member Stacy suggested adding a discussion of Site Plan Review Regulations Section 4.4 to the next Subcommittee meeting agenda. In cases where an approval from the ZBA is required, a process for concurrent evaluation may be necessary to speed the process.

Member Faunce suggested adding discussion of Site Plan Review Regulations Section 3.1, Site Plan Review Jurisdiction, to the next Subcommittee meeting agenda. The ways in which the Planning Board decides which applications go to the full Board vs to Minor Site Plan Review may need renegotiation, as items which may only need the latter are coming to the former.

Member Faunce suggested adding the waiver of Site Plan Review Regulations Article VI (Design Requirements) for property outside of the area of work to the next Subcommittee meeting agenda. Language needs to be crafted to specify how to determine what actions trigger bringing a whole or part of a site up to current regulations. Right now the trigger is too subjective. In crafting such language, the Subcommittee should take into account the options of "area of disturbance" and/or "visually contiguous" and/or "of contiguous use."

Member Stacy suggested adding discussion of the threshold for Major vs. Minor Subdivision Regulation application to the next Subcommittee meeting agenda.

Member Stacy suggested adding discussion of Major Subdivision Checklist to the next Subcommittee meeting agenda. Member Ford Burley will discuss the matter with Member Stacy in advance of the next Subcommittee meeting to determine specifics.

Member Faunce suggested the Subcommittee add the development of a formal process for inviting feedback from other Land Use Boards to the next Subcommittee meeting agenda.

5. ADJOURNMENT

A MOTION was made by Richard Ford Burley to adjourn the meeting at 7:22pm. The MOTION was seconded by Andrew Faunce.

****The MOTION was approved unanimously.***

The meeting adjourned at 7:22pm.

Respectfully submitted,

Richard Ford Burley

Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025

Site Plan Review Regulations 3.2 – Minor Site Plan Review

Discussion. Because SPR 3.2 is silent on the issue of waivers, at present, in the event that an application undergoing minor site plan review requires waivers, an applicant must take those waiver requests to the full Planning Board for approval. This may be time consuming and inefficient, and may present an impediment to the purpose of Minor Site Plan Review, being to expedite matters that do not rise to the level of Planning Board intervention.

The question before the Regulations Subcommittee is whether it would be worth allowing the Minor Site Plan Committee to grant some or all kinds of waivers, or some other means to expedite applications. Another idea would be to grant provisional waivers while empowering a member of the Minor Site Plan Committee to appear before the Planning Board with requests that those provisional waivers be officially approved by the Planning Board (at the Board's next meeting, for instance)?

Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025

Shading Requirements

Site Plan Review Regulations Section 6.2 – Landscaping Standards

6.A.5.

Purpose
…
5. To mitigate increased temperatures caused by large expanses of unshaded asphalt

6.2.E/6.2.E.1/6.2.E.2/6.2.E.3/6.2.E.6.a

E. Landscaping of Parking Areas

To moderate summer temperatures due to heated pavement, minimize the visual effects of parking areas, provide separated space for pedestrians to walk through parking lots, and support on-site stormwater management, parking lots shall be dispersed by landscaped beds and integrated with pedestrian access, as follows:

1. Those areas containing one or two rows of parking spaces shall be planted with deciduous trees along the perimeter, so placed to shade 30% of the total parking area, and supplemented with shrubs, perennials, or understory trees to visually screen the parking area.

2. The end of each row of parking shall have a landscape bed to protect any vehicle parked next to a travel lane. End beds shall be at least 8 feet in width, except for corner radii, shall be long enough to protect tree roots and vehicles parked in the adjacent parking spaces, and shall be planted with deciduous trees for shade.

3. Any parking area containing three or more rows of parking shall be planted along the perimeter as stated above, and also shall have landscape islands placed between each double row of parking spaces, exclusive of aisles. These landscape islands shall have a minimum width of 8 feet, shall extend the length of the row of parking spaces, shall be planted with deciduous trees for shade, and shall terminate on each end with a landscape bed. If linear landscape islands are not practicable, then other interior landscape islands of equivalent size and evenly distributed throughout the parking lot may be allowed.

…

6. a. The number of trees required to meet the 30% shading requirement for parking areas shall be calculated on a minimum crown diameter of 30 feet, which each tree shall have attained within 10 years from planting.

Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025

Shading Requirements

Zoning Ordinance Section 411.7 - Shading and Buffers

411.7.A/B

A. Preservation of a property's existing trees is encouraged to maintain a natural shade canopy upon the property.

B. Properties shall be landscaped to achieve a minimum of 30% shade coverage.

Discussion. Recent discussions have revealed a lack of specificity in either the Site Plan Review Regulations or the Zoning Ordinance regarding how shading coverage is to be calculated. Is there another document the Planning and Development Department makes use of, or does a methodology need to be designed and written up in either of these existing Planning Board documents? Questions to be asked: Do trees on the north side of a parking lot count for less shade than those on the south? At what time of day/sun position should the calculation assume (i.e. noon/directly overhead)? Do two trees planted to have overlapping crowns receive full percentage each? Is it realistic to assume that a parking lot tree will attain a crown of 30 feet within ten years (SPR.6.2.E.6.a), and are there enforcement actions if it does not? Additionally, the Zoning Ordinance (411.7.B) requires 30% shading for all properties, not just parking lots. Should this be synchronized with the SPR design requirements?

Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025

Zoning Ordinance 607.3 Maximum Off-Street Parking Requirement

607.3.B.2.b/c

B. Off-street parking in excess of 120% but not more than 150% of the minimum requirement set forth in Section 607.2 may be permitted as set forth below.

1) The following categories of parking spaces shall not be counted towards the 120% maximum set forth in subsection A, but shall be subject to the 150% cap set forth in subsection B:

a. Spaces provided within a parking structure.

b. Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program. Such spaces shall be reserved and used only for carpool, vanpool, or car-share program parking, and shall be signed or marked accordingly.

2) For spaces other than those described in subsection B.1), the Planning Board may approve parking in excess of the 120% maximum set forth in subsection A by conditional use permit provided that the following criteria are met:

a. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses;

b. The proposed development demonstrates that its design and intended uses will continue to support high levels of existing or planned transit and pedestrian activity; and,

c. The site plan indicates where additional parking can be redeveloped to a more intensive transit supportive use in the future.

d. In no case shall the Planning Board approve parking for any use or development that exceeds 150% of the minimum requirement as set forth in Section 607.2.

Discussion. It is unclear what it would mean for a development's design to "support high levels of existing or planning transit and pedestrian activity" (607.3.B.2.b), and it is potentially even more unclear what it would mean for a site plan to indicate "where additional parking can be redeveloped to a more intensive transit supportive use in the future" (607.3.B.2.c). Clarification is needed on the goals of these regulations so that clearer language can be drafted.

Lebanon Planning Board
Development Regulations Subcommittee
Revision Targets: December 2025

Site Plan Review Regulations Section 4.9 – Phased Developments

4.9.F. If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, he or she may apply to the Planning Board for an extension of up to two years for the particular phase, pursuant to Section 4.10 of these Regulations. The request for an extension shall be submitted to the Planning and Development Department prior to the expiration of the deadline(s) involved.

If the applicant fails to meet any such deadline, or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed "vested." However, the applicant may resubmit the application for such phase(s) to the Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.

Discussion. The question was raised as to whether phased developments are held to the same standard as non-phased developments regarding time to completion and timeline extensions, i.e., are phased developments held to the single, two-year extension request available in section 4.10? The underlined section in the first paragraph suggests so, but is not explicit, and the underlined section in the second paragraph is vague and may allow more leeway than the present Board would prefer.

Planning & Development Department Staff Notes:

In response to the above and in light of recently adopted amendments to NH RSA 674:39 made pursuant to HB413, staff has prepared draft amendments to the Site Plan Review Regulations with respect to the inter-related topics of phased developments, expiration of site plan approvals, and the exemption periods during which an approved plan is exempt from changes to the land use regulations (and following which the project is permanently vested against any future changes to the land use regulations).

Attached hereto are the following:

- A PowerPoint slide on HB413, prepared by Tim Corwin, taken from a NH Department of Business & Economic Affairs webinar presentation given on September 18, 2025
- A copy of HB413, as enacted
- Draft amendments to Sections 4.8, 4.9, 4.10, 4.11 (new), 5.1, and 8.4 of the Site Plan Review Regulations

HB 413 - relative to subdivision regulations on the completion of improvements and the regulation of building permits.

- 674:39 exemption period for approved subdivision plats and site plans:
  - Previously, an approved development was exempt from changes to local land use regulations for a period of 2 years
  - If "active and substantial development" was achieved within 2 years, the project was exempt for an additional 3 years
  - If "substantial completion" was achieved within 5 years of approval, the project was vested forevermore, except for impact fees
- HB 413 amends 674:39,I – IV:
  - Extends time to achieve "active and substantial development" from 2 yrs to 3 yrs
  - Extends time to achieve "substantial completion" from 5 yrs to 7 yrs
- New paragraph V: *"The 7-year period and 3-year exemption in this section shall apply to any approval granted on or after July 1, 2023."*
  - With the addition of paragraph V, it is not clear how 674:39 applies to projects that were (a) approved prior to July 1, 2023, and (b) have not yet achieved substantial completion.
- **Effective Date:** July 1, 2025 (signed July 15, 2025)

BEA New Hampshire Department of BUSINESS AND ECONOMIC AFFAIRS

CHAPTER 186
HB 413 - FINAL VERSION

2025 SESSION

25-0145
06/05

HOUSE BILL ***413***

AN ACT relative to subdivision regulations on the completion of improvements and the regulation of building permits.

SPONSORS: Rep. Pauer, Hills. 36; Rep. Alexander Jr., Hills. 29; Rep. J. Aron, Sull. 4; Rep. Cole, Hills. 26; Rep. Damon, Sull. 8; Rep. Gibbs, Merr. 23; Rep. M. Aron, Sull. 8; Sen. Murphy, Dist 16

COMMITTEE: Municipal and County Government

ANALYSIS

This bill:

I. Extends the existing 5-year exemption for subdivision plats to 7 years and increases the preliminary step from 2 years to 3 years.

II. Changes the building code and fire code appeals process, limiting the jurisdiction of the local building code board of appeals to hearing decisions made under local amendments to those codes.

III. Provides that decisions of the building code review board regarding decisions of the fire marshal and local building code board of appeals may be appealed to superior court or the housing appeals board.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-0145
06/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to subdivision regulations on the completion of improvements and the regulation of building permits.

Be it Enacted by the Senate and House of Representatives in General Court convened:

186:1 Regulation of Subdivision of Land; Exemption. Amend RSA 674:39 to read as follows:

674:39 [~~Five~~] ***Seven*** Year Exemption.

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of [~~5~~] *7* years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within [~~24 months~~] ***3 years*** after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the [~~5-year~~] ***7-year*** exemption described in paragraph I. The planning board may, for good cause, extend the [~~24-month~~] ***3-year*** period set forth in subparagraph I(a).

V. The 7-year period and 3-year exemption in this section shall apply to any approval granted on or after July 1, 2023.

186:2 Powers of Building Code Board of Appeals. Amend RSA 674:34, I to read as follows:

I. The building code board of appeals shall hear and decide appeals of orders, decisions, or determinations made by the building official or fire official relative to the application and interpretation of the state building code or state fire code as defined in RSA 155-A:1. ***If the zoning board of adjustment or board of selectmen is acting as the building code board of appeals under either RSA 673:1, V, or RSA 673:3, IV, its jurisdiction shall be limited to hearing appeals of local amendments to the state building code or state fire code, and all other appeals shall be made to the building code review board under RSA 155-A:11-b.*** An application for appeal shall be based on a claim that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of the state building code or the state fire code.

186:3 New Hampshire Building Code; Appeal of Decisions of Local Building Code Board of Appeals. Amend RSA 155-A:11-b, I to read as follows:

I. The board ***shall hear and decide appeals of orders, decisions, or determinations made by the local building official relative to the application and interpretation of the state building code and state fire code as defined in RSA 155-A:1, and*** shall hear appeals of final decisions of any local building code board of appeals established under RSA 674.

186:4 New Paragraph; Register of Deeds; Site Plans. Amend RSA 478:1-a by inserting after paragraph XIII the following new paragraph:

XIV. The register of deeds shall not refuse to record a plat under this section for failure to comply with a law, regulation, or ordinance adopted after the date the site plan or plat was approved by the municipal planning board.

186:5 Housing Appeals Board; Authority and Duties; Appeals of Decisions by the Building Code Review Board. Amend RSA 679:5, IV to read as follows:

IV. After local remedies have been exhausted, appeals may be brought before the board by an applicant to the municipal board, committee, or commission, or by any other aggrieved or injured party who can demonstrate legal standing to appeal pursuant to RSA 677:4 or RSA 677:15. The municipality shall be a party to the action. If the applicant is not the party initiating the action before the board, then the applicant shall automatically be an intervenor. The board shall grant intervenor status to abutters and to any other aggrieved or injured party who can demonstrate legal standing to appeal pursuant to RSA 677:4 or RSA 677:15. ***Decisions of the state fire marshal that may be appealed under RSA 155-A:11, I,***

and final decisions of a local building code board of appeals that may be appealed under RSA 155-A:11-b shall first be appealed to the building code review board pursuant to those sections. Decisions of the building code review board on such appeals may then be appealed either to superior court pursuant to RSA 155-A:12 or the board under this chapter.

186:6 Zoning Board of Adjustment and Building Code Board of Appeals. Amend RSA 673:3, IV to read as follows:

IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in a manner prescribed by the local legislative body; provided, however, that [~~an elected~~] ***a*** zoning board of adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the board shall be a resident of the municipality in order to be appointed.

186:7 Effective Date. This act shall take effect July 1, 2025.

Approved: July 15, 2025
Effective Date: July 01, 2025

SITE PLAN REVIEW REGULATIONS
PHASED DEVELOPMENT, PLAN EXPIRATION, AND EXEMPTION PERIODS
DRAFT AMENDMENTS

ARTICLE IV – PROCEDURE

[…]

Section 4.8 – Procedure for Site Plan Review

[…]

D. Notice of Action

[…]

The Notice of Action shall set forth the following:

[…]

7. A reminder of the time limits set forth in Section 4.10 ~~of these Regulations~~, and where appropriate, any additional time parameters, such as deadlines within which particular conditions must be fulfilled, the threshold levels of work which shall constitute "active and substantial development" or "substantial completion" for purposes of RSA 674:39, or a phased development phasing schedule ~~timetable~~ pursuant to Section 4.9, which shall be referenced and attached as an exhibit ~~of these Regulations~~.

[…]

Section 4.9 – Phased Developments

The review and approval procedure for phased developments shall be as follows:

A. ~~For purposes of these Regulations,~~ "Pphased development" shall mean a project which the applicant intends to construct in phases over a total period of time which may be in excess of the time limits set forth in Sections 4.10, 8.~~4~~3.A~~B~~, or 8.~~4~~3.B~~C~~ ~~of these Regulations~~ or those in RSA 674:39. ~~Phased development may also include a project for which the Planning Board has imposed a phasing requirement pursuant to Sections 501.1(D) or 502.2(D) of the Zoning Ordinance, or otherwise, in order to mitigate the impact of a development on community facilities, services, or utilities.~~

[…]

C. The applicant shall submit with the application a proposed phasing schedule, which, if approved by the Board, shall be included as part of any approval. The phasing schedule shall include the following information, for each phase:

1. A written specification of all improvements, on-site or off-site, to be installed as part of that phase.~~;~~

2. ~~A~~ The deadline for the posting of any ~~required~~ security for that phase that may be required pursuant to Sections 8.3.B or C;

~~3. A deadline for the completion of such improvements subsequent to the posting of such security, and;~~

~~4~~3. ~~A~~ The date by which a Building Permit or, if a Building Permit is not required for the phase, a Zoning Permit, must be obtained to prevent the approval for that phase from being considered void pursuant to Section 4.10.A.1 ~~of these Regulations~~. The deadline for obtaining a Building Permit for the first phase shall be no later than two (2) years from the date of the Planning Board's approval. The deadline for obtaining Building Permits for each subsequent phase may be no later than two (2) years following the substantial completion deadline for the prior phase.

4. The deadline for achieving active and substantial development or building of that phase pursuant to RSA 674:39 and Section 8.4.A. The deadline for achieving active and substantial development or building of the first phase shall be three (3) years from the date of the Planning Board's approval. The deadlines for achieving active and substantial development or building of each subsequent phase may be no later than three (3) years following the substantial completion deadline for the prior phase.

5. The deadline for achieving substantial completion of that phase pursuant to RSA 674:39 and Section 8.4.B. The deadline for achieving substantial completion of the first phase shall be seven (7) years from the date of the Planning Board's approval. The deadlines for achieving substantial completion of each subsequent phase may be no later than seven (7) years following the substantial completion deadline for the prior phase.

A phasing plan sheet graphically depicting the boundaries of each phase shall be included as part of the plan set per Section 5.1.E.25. The phasing schedule may be included on the phasing plan sheet or, if a separate document, shall reference the phasing plan sheet and shall be attached to the Notice of Action as an exhibit.

~~The phasing schedule may also specify threshold levels of work and time lines which must be completed, in order for the project, as a whole, or particular phase(s) of the project, to be considered "vested" pursuant to RSA 674:39, or the New Hampshire common law of vested rights.~~

~~The approval for a particular phase shall not be considered "final" under RSA 676:4, I(i), nor shall any plan of that phase be recorded in the Grafton County Registry of Deeds, until the security for the improvements which are part of that~~

~~phase has been properly posted with the City or until such required improvements have been completed, inspected, and approved by the City.~~

[…]

E. Prior to obtaining a Building Permit for each later phase, the applicant shall submit to the Planning Director a copy of the Building Permit application. The Planning Director shall then determine whether the application is in accordance with the approved phasing schedule, and whether any required security for that phase has been provided to the City.

~~If the development is proceeding in accordance with the approved phasing schedule, the later phase(s) shall normally be presumed to be "vested" against changes in City land use ordinances and regulations, except as otherwise specified by the Board as part of its approval. However, the Planning Director may determine that, due to specific circumstances, including but not limited to non-compliance with applicable regulations or conditions of approval, a later phase or phases should not be considered "vested" under RSA 674:39 or the New Hampshire common law of vested rights. In such a case, the Planning Director may forward to the Planning Board a recommendation to initiate proceedings, using the procedures of RSA 676:4-a as applicable, to revoke approval of an unbuilt phase or phases.~~

F. Expiration of Phasing Schedule.

1. If the applicant fails to meet any such deadline set forth in the phasing schedule, or any extension thereof or as may be amended, then the approval of that phase and all subsequent phases shall be considered void. ~~, and such phase(s) shall no longer be presumed "vested."~~

2. Phasing Schedule Amendment. If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, the applicant may apply to the Planning Board to amend the phasing schedule if the requested changes could have been approved by the Planning Board pursuant to the requirements of Sections 4.9.C.3, 4, and 5 at the time the phasing schedule was originally approved.

   Requests for amendments received after the date proposed to be amended will not be considered by the Board. A phasing schedule amendment may be granted only after a public hearing with notice as provided in Section 4.8.

   In determining whether to grant such an amendment, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision. The Board shall grant no more than one phasing schedule amendment unless it

determines, based on legal advice, that such amendment is required in order to prevent a violation of constitutional rights.

3. Phasing Extensions.

a. If the applicant anticipates being unable to meet any Building Permit deadline with respect to any phase, the ~~he or she~~applicant may apply to the Planning Board for a two (2) year~~n extension of up to two years~~ for the particular phase, pursuant to Section~~s~~ 4.10.A.2 and A.3 ~~of these Regulations~~. In accordance with Section 4.10.A.3, the Board shall grant no more than one such extension for each phase~~The request for an extension shall be submitted to the Planning and Development Department prior to the expiration of the deadline(s) involved~~.

b. If the applicant anticipates being unable to meet any deadline for achieving active and substantial development or building with respect to any phase, the applicant may apply to the Planning Board for an extension of up to two (2) years for the particular phase, pursuant to Sections 8.4.A.3 and 4. In accordance with Section 8.4.A.4, the Board shall grant no more than one such extension for each phase.

~~If the applicant fails to meet any such deadline, or extension thereof, then the approval of that phase and all subsequent phases shall be considered void, and such phase(s) shall no longer be presumed "vested." However, the applicant may resubmit the application for such phase(s) to the Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.~~

Section 4.10 – Expiration of Site Plan Approval

A. Building Permit.

1. Any approved site plan for which a Building Permit or, if a Building Permit is not required for the project, a Zoning Permit, has not been obtained within two (2) years of the date of the ~~original~~ Planning Board's approval shall be considered void; however, the Board may, for good cause, specify in the original Notice of Action some alternative time limit for obtaining a Building Permit. ~~The voiding of an approval under this paragraph shall terminate the vesting of the application against changes in regulations, as set forth in RSA 676:12,VI and RSA 674:39.~~

2~~B~~. Notwithstanding paragraph A above, the Board may grant an extension of ~~up to~~ two (2) additional years beyond the original expiration date. ~~A request for such an extension must be submitted by the Applicant to the Planning and Development Department prior to such expiration date, and R~~requests ~~for extension of the site plan approval~~ received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8 ~~of these Regulations~~.

3~~C~~. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision ~~on an extension request under this Section~~. The Board shall grant no more than one (1) extension ~~for any site plan~~, unless it determines, based on legal advice, that such extension is required in order to prevent a violation of constitutional rights.

4~~D~~. For applications subject to both Site Plan and Subdivision review, expiration of Board approvals shall occur as set forth in the Subdivision Regulations.

5~~E~~. For approved phased developments, the deadlines for obtaining a Building Permit for each phase, as stated in the approved phasing schedule in accordance with Section 4.9.C.~~(4~~3) ~~of these Regulations~~, shall be substituted for the time limitation set forth in Section 4.10.~~(~~A.1~~)~~. Any request for an extension of time for a particular phase, as described in Section 4.9.F.3.a ~~of these Regulations~~, shall only apply to the particular phase, and such extension shall not automatically apply to any later phases of the development.

B. Active and Substantial Development or Building.

Any approved site plan for which active and substantial development or building per Section 8.4.A.1 has not been achieved within three (3) years of the date of the Planning Board's approval shall be considered void, unless extended pursuant to Section 8.4.A.3, in which case the approved site plan shall be considered void if active and substantial development or building per Section 8.4.A.1 has not been achieved within five (5) years of the date of the Planning Board's approval.

C. Substantial Development Completion.

Any approved site plan for which substantial completion per Section 8.4.B has not been achieved within seven (7) years of the date of the Planning Board's approval shall be considered void.

Section 4.11 – Reapproval of Expired Site Plan Approval

For any site plan approval that has expired pursuant to Section 4.10, the applicant may resubmit the application to the Board for re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.

*[**TBD - Submission requirements for a "reapproval"**]*

Section 4.~~11~~ 12 – Permission to Visit Property

[...]

ARTICLE V – SUBMISSION REQUIREMENTS

Section 5.1 – Drawings and Other Submittals

[…]

An application for Site Plan Review shall include the following information:

[…]

E. Paper copies of the proposed Site Plan drawing (the number to be determined by the Planning and Development Department on an as-needed basis).

[…]

Site Plan drawings shall include the following information (NOTE: The submission requirements described in paragraphs E.1 through E.4 below shall not be waivable under the procedures set forth in Article VII - "Waiver Procedure" ~~of these Regulations):~~

[…]

25. A phasing plan sheet shall be provided for any phased development per Section 4.9.C.

[…]

ARTICLE VIII – CONSTRUCTION, COMPLETION, AND BONDING

[…]

Section 8.4 – Active and Substantial Development and Substantial Completion

As provided for in RSA 674:39, III, the Board may specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

A. Active and Substantial Development or Building

1. U~~For purposes of these Regulations, u~~nless modified by the Board at the time of approval of a specific application, the completion of all of the following shall imply "Active and Substantial Development or Building" when inspected and approved by the Reviewing Engineer:

   a. Construction of and/or installation of basic infrastructure to support the development (including all of the following: roadways, access ways, parking lots, etc. to a minimum gravel base; and water and wastewater lines and other utilities placed in underground conduit ready for connection to proposed buildings/structures) in accordance with the approved plans; and,

b. Construction and completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, underdrains, catch basins, etc.) in accordance with the approved plans; and,

c. Placement and maintenance of all erosion control measures on the site as specified on the approved plans.

Movement of earth, excavation, or logging of a site without completion of items a, b, and c above, shall not be considered "Active and Substantial Development or Building." Plans approved in phases shall be subject to this definition for the phase or phases currently being developed.

2. Unless otherwise specified by the Board, Active and Substantial Development or Building shall be achieved within ~~two~~ three (~~2~~3) years from the date of the Planning Board's approval.

3. The Planning Board may extend the time for completion of Active and Substantial Development or Building by an additional two (2) years ~~may be extended for~~upon demonstration of good cause by the ~~Planning Board~~. Requests received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8.

4. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision. The Board shall grant no more than one extension, unless it determines, based on legal advice, that such extension is required in order to prevent a violation of constitutional rights.~~A request for an extension of time within which to complete such Active and Substantial Development or Building shall be submitted by the Applicant to the Planning and Development Department prior to such expiration date for review in accordance with the provisions of Section 4.10 of these Regulations. Requests for extension of time to complete Active and Substantial Development or Building received after the expiration date shall not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 4.8 of these Regulations.~~

~~In no event shall the time for completion of Active and Substantial Development or Building be extended to more than five (5) years from the date of the Planning Board's approval, unless the development has been approved for completion in phases in accordance with Section 4.9 of these Regulations.~~

5. For approved phased developments, the deadlines for achieving Active and Substantial Development or Building for each phase shall be as set forth in the approved phasing schedule in accordance with Section 4.9.C.5. Any request for an extension of time for a particular phase, as described in Section 4.9.F.3.b, shall only apply to the particular phase, and such extension shall not automatically apply to any later phases of the development.

6. In the event the Planning Board approves an extension request, the Applicant shall be required to update any Security Agreements or other documents, as necessary, to reflect the dates of the extended approval.

B. Substantial Completion

1. U~~For purposes of these Regulations, u~~nless modified by the Board at the time of approval of a specific application, Substantial Completion shall be deemed to have occurred when all on-site and off-site improvements specified in the Site Plan approval have been constructed or installed by the Applicant and inspected and approved by the Reviewing Engineer, except for those improvements which are explicitly deferred by vote of the Board.

   In the event that the City calls a performance security for such improvements and the funds are paid to the City, Substantial Completion of the improvements ~~in the subdivision~~ shall be deemed to have occurred.

2. Unless the Site Plan has been approved for completion in phases in accordance with Section 4.9 ~~of these Regulations~~, or as otherwise specified by the Board, Substantial Completion shall be achieved within ~~five~~ seven (~~5~~7) years from the date of the Planning Board's approval. [...]

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