

**ARTICLE I
GENERAL PROVISIONS**

63-1 Definitions

In the interpretation of this Chapter, the meanings of words and phrases shall be according to the definitions included in Ch. 200, Zoning as amended, unless the context shows another sense to be intended.

63-2 through 4 Reserved

**ARTICLE II
PERMITS AND APPROVALS**

63-5 Site Plan Review and Approval

A. Site Plan Required.

(1) Purpose:

The purpose of Site Plan Review and Approval shall be:

- (a) to assist those wishing to build projects within the City by providing them with the necessary information about the City's requirements prior to the start of any construction or issuance of permits.
- (b) to ensure compliance with all applicable codes and standards.
- (c) to the extent practicable:

[1] assure that all elements of site use and layout are designed so as to protect the public health, safety and welfare, both on site and off-site;

[2] maximize convenience, improve visual appearance and enhance property values;

[3] minimize negative environmental impact through means including both on-site and off-site improvements and other mitigating measures.

(2) Prior Approval Required.

- (a) General: No building permit shall be issued for, and no person shall undertake any use or improvement subject to this Section, including earth movement or site development, (except as noted below), unless Site Plan Approval therefore has been first granted to such person.

(b) Prior Earth Moving: Under certain circumstances set forth in Section F, a Preliminary Site Plan may be approved allowing specified site work to proceed in advance of approval of a Final Site Plan.

(3) Applicability.

(a) General: Except as provided below under Sub-Paragraph (b) "Exceptions", Site Plan Review and Approval shall be required for any of the following: new construction of any building or structure; addition to an existing building or structure; increase in area of on-site parking or loading areas, whether paved or otherwise; change in location of any exterior feature required by the Code of the City of Marlborough, including but not limited to paving, parking, loading areas, access roads, driveways, curb cuts, sidewalks, fencing, exterior storage; reduction of required landscaping or screening; change of use or expansion of use requiring a change in any exterior site requirements identified in Ch. 200, Zoning, or creating a different impact on the surrounding area; change in use of an existing curb cut creating an increase of ten percent (10%) or more in vehicle trips caused by expansion of the project or by a change of use from one use category to another as listed in Ch. 200, Zoning "Table of Off Street Parking Requirements", or by addition of drive-thru facility; or as otherwise required by Ch. 200, Zoning.

(b) Exceptions: The only exceptions to the above shall be installation of new landscaping, ordinary repairs to existing site development work, minor changes in location of existing walkways, parking areas, loading areas or driveways constituting less than 100 square foot additional area (whether paved or unpaved), provided the changes are in full compliance with Ch. 200, Zoning. Approvals under the Subdivision Control Law shall not apply.

B. Site Plan Application.

(1) Project Definitions. For the purpose of this Section the following definitions shall apply:

(a) Minor Residential Projects: One and two family dwellings including all new construction, additions and site improvements thereto and minor modifications or site improvements to existing multi-family dwellings which do not increase the number of parking spaces or dwelling units.

(b) Non-Residential and Major Residential Projects: All projects except those listed in paragraph (a) above.

(2) Pre-Application Review:

(a) Minor Residential Projects: The Applicant may request the applicable Coordinating Department identified in Section E(1) to schedule an informal pre-application review to establish submission requirements.

(b) Non-Residential and Major Residential Projects: The Applicant shall request the applicable Coordinating Department identified in Section E(1) to schedule an informal pre-application review, with those people the Coordinating Department deems appropriate, for the purpose of reviewing preliminary proposals and alternatives. By this means, obviously inappropriate plans may be eliminated, the City may have the opportunity to have input into the planning and design process at its earliest level, and submission information

can be established.

(3) Formal Submittal: One (1) copy of a Site Plan shall be submitted to each of the City Reviewing Departments identified in Section E(3) as follows:

- (a) An application form properly completed and signed.
- (b) Information identified in the Pre-Application Review and in Section C.
- (c) Fees (See Paragraph (4) below).

(4) Fees and Expenses: To reimburse the City for the cost of Site Plan processing and review, inspection and other costs, fees as specified in Article III of this Chapter shall be tendered to the City by the Applicant at the time of application and shall constitute a part thereof.

(5) Preparation: The Site Plan shall be prepared and stamped by a registered professional engineer, and/or landscape architect, as appropriate, unless either (a) the work is limited to minor modifications or additions to a structure or site not affecting utilities or parking requirements, or (b) the requirement is waived by the City Coordinating Department identified in Section E(1) as being unnecessary for purposes of the particular site, in which case the Site Plan must be prepared with sufficient clarity and detail to show the nature of the work to be preformed.

(6) Public Notice: Applicant shall provide public notice as follows:

- (a) Applicability: All projects EXCEPT the following:

[1] Minor Residential projects as defined in paragraph (1)(a) above;

[2] Minor modifications to Non-Residential and Major Residential Projects as defined in paragraph (1)(b) above, provided said modifications do not increase building floor space by more than ten percent (10%) or 2000 square feet (whichever is greater); Any project requiring a public hearing for a special permit or subdivision of land as a result of the particular application for Site Plan Approval.

- (b) Type of Notice: Applicant shall publish a notice in a newspaper of general circulation within the area at least once within two weeks of filing a Site Plan application. Proof of said publication shall be provided to the Coordinating Department identified in Section E(1) prior to Certification of Completeness of Submission under Section E(2).
- (c) Content of Notice: The notice shall provide a brief description of the project, including size, use, street address and name of applicant, and the availability of Site Plans for public inspection. Specific requirements for the notice may be established as provided under Section H.

(7) Standing to File Application: A Site Plan shall not be considered valid unless the applicant has written consent of the owner or owner's agent, filed with the application.

C. Submission Requirements.

The Site Plan shall contain the following information unless waives as indicated

below for projects not requiring such material for purposes of review. Where appropriate, show existing conditions on one sheet and proposed conditions on a separate sheet. Sheet size should normally be a maximum of 24" x 36" unless otherwise approved as indicated below.

(1) Minor Residential Projects: See definition under Section B(1). Waivers to submission materials and sheet size may be requested from the Coordinating Departments identified in Section E(1).

- (a) Small Additions/Site Improvements: Submit information necessary for review as determined by the Building Inspector. All information should be on one sheet, if possible. At a minimum provide items (2)(a) and (2)(b) below in their entirety. Other information should be limited to details of the specific improvement. All applications must be accompanied by a certified plot plan (survey) of the lot, showing lot lines, dimensions and setbacks.

(b) New Construction and Large Additions: Submit all items listed under paragraph (2) below EXCEPT the following: (f)[2], (j)[2], (l), (m), (n).

(2) Non-Residential and Major Residential Projects: See definitions in Section B(1). Waivers to submission materials and sheet size may be requested from the Coordinating Department identified in Section E(1). For small additions or site improvements, submit information necessary for review as determined by the Coordinating Department, similar to that required in Paragraph (1)(a) above. For new construction and large additions, submit the information listed below:

(a) Title Block:

[1] Proper heading, containing project title (if any).

[2] Name and address of owner, and engineer, landscape architect and/or surveyor.

[3] Street number (as assigned by the City Engineer).

[4] Assessor's plate and parcel number.

[5] Scale of drawing.

[6] Date and revision date.

[7] Approval Signature Block: Provide space for date and signature by all appropriate City Reviewing Departments, listed in Section E(3).

(b) General Information on Cover Sheet:

[1] Locus Map: show location of site and names of all surrounding streets within 1,000 feet of boundaries of lot. (See item (d)[2] below concerning location of buildings on surrounding lots). Identify on Locus Map all other parcels within 1,000 feet in which applicant has any financial interest.

[2] North arrow.

[3] Zoning: district in which the property lies and any zoning district boundary lines which may cross the locus, including Floodplain and Wetland Protection Districts. Show zoning lines on locus map and other plans if appropriate.

[4] The lot: completely dimensioned or show dimensions on other sheets.

[5] Lot Area: in acres and in square feet.

(c) Existing Conditions: Show existing conditions, including buildings and structures, setback dimensions, parking, driveways, landscaped areas, boundaries of wooded areas and wetlands, topography and drainage easements.

(d) Proposed Buildings and Structures:

[1] Location of all proposed buildings and structures on the lot and those to remain: Show all building and yard dimensions, foundation and building limits including overhangs, porches, decks and similar appurtenances.

[2] For proposed non-residential and multi-family residential developments: Show approximate location of all existing buildings on all abutting lots and on lots across street. (Use separate sheet if necessary or incorporate on Locus Map).

[3] Building Heights, Stories and Elevations: Number of stories; elevations of foundation sill, cellar floor and first floor; building heights as defined by zoning.

[4] Floor Areas: Building floor areas for each floor and in total.

[5] Side Elevations: On separate sheet, show side views of building. (For multiple structures or similar cases, this requirement may be waived by the Coordinating Department identified in Section E(1)).

(e) Parking, Driveways and Exterior Features:

[1] Location: Locate all driveways, walkways, parking spaces, pick-up, delivery, loading, storage and rubbish disposal areas, outdoor lighting, and similar exterior site features.

[2] Uses: Identification of all proposed uses on site, in proposed locations.

[3] Calculation of parking spaces required according to Ch. 200, Zoning. Provide specific listing of proposed uses, floor areas, and parking spaces, according to categories in Ch. 200, Zoning, "Table of Off Street Parking Requirements."

(f) Floor Area Ratio (FAR), Lot Coverage and Landscaping:

[1] FAR and Lot Coverage: Identification of all areas included within "lot coverage" and "landscape areas", and calculation of FAR (if applicable), and percentage of lot coverage. (See Definitions in Ch. 200, Zoning). Show calculations on same sheet.

[2] Plantings: Planting plan in conformance with zoning requirements, showing plantings, fencing and screening. General planting plan must be submitted with initial application. Detailed plan with specified plantings can be submitted at later date with approval of the Coordinating Department identified in Section E(1).

(g) Topography: Existing and proposed topography at two foot contour intervals. (N.G.V.D. datum preferred). Specify the datum plane on which elevations are based.

(h) Easements: Location and type of any easements and any drainage system (natural or otherwise) within the site and within fifty (50) feet of the property, or that may be needed to evaluate issuance of permit.

(i) Utilities: Location of all existing utilities, septic systems and wells within one hundred (100) feet in any direction of the propose work, unless waived by the City Engineer. Also show the location and all pertinent data relating to the proposed services. If a private sewage disposal system is involved in the project, a design plan shall be submitted with the Site Plan.

(j) Wetlands and Open Space:

[1] Wetlands: Boundaries of wetland and floodplain areas as defined under G.L. Ch. 131 §40, Mass. Wetlands Protection Act; G.L. Ch. 131 §40A, Mass. Inland Wetlands Restriction Act; Marlborough Code Ch. 200, Zoning, Section 19, Floodplain and Wetland Protection District;

[2] Open Space: Location of existing or potential publicly accessible open space parcels or trails abutting the project site or located within 500 feet of the project site. (This information may be shown on Locus Map if appropriate).

(k) Erosion Control: Plan for projects which will disturb more than 5,000 square feet of surface area.

- (l) Signs: Signs are included as part of a Site Plan, but the necessary information can be submitted and approved at a later date at the option of the applicant. The proposed location and general features of all signs shall be submitted before building occupancy. Detailed information shall be shown on a separate plan submitted in accordance with Ch. 163, Sign Ordinance.

(m) Impact Reports (General):

[1] Information: In certain cases, particularly large or complex projects which are expected to create a substantial or unusual impact, the City Planner or Engineer may require the applicant to provide relevant reports or other information for purposes of demonstrating that proposed improvements on-site or off-site are adequate and will not create adverse impact on the neighborhood or City. The applicable City Officials shall notify the applicant of this requirement within a reasonable period of time following submission of the Site Plan.

[2] Review: In particular cases where warranted, (see below), applicant may be required to assist said departments in review of said reports by providing for independent technical consultants to review technical reports on behalf of the City. The applicable City Officials shall notify the applicant of the particular circumstances where such technical assistance may be necessary.

- (n) Traffic Impact Report (if required): If deemed necessary for purposes of review by the Planning and Engineering Departments, a Traffic Impact Report shall be submitted by the applicant for Site Plan Approval. The report shall, if so required, be prepared by a professional engineer.

[1] Scoping Meeting to Identify Street of Intersections to be Studied:

- [a] The streets or intersections to be studied shall be identified by the City Planner and Engineer within fourteen (14) days following a scoping meeting which the applicant may attend and which shall be held within thirty (30) days of formal submission.

- [b] The minimum percent of traffic (average daily or peak hour) generated by the proposed project and impacting on the street or intersection to be studied shall be five percent (5%).

[2] Report Content: The report shall generally include information on the items listed below, unless the scope is modified by the City Planner and Engineer because of special circumstances, such as coordination with other projects, with similar reports required by State Agencies, with the City Master Plan or other long range plans. No report shall be required if the applicant is required to file an Environmental Impact Statement for traffic purposes by the Commonwealth of Massachusetts.

- [a] Provide traffic accident data, average daily and peak hour vehicle volumes, and capacity analysis of streets and intersections scope as provided for by sub-paragraph [1] above. The capacity analysis shall include level of service, volume to capacity ratio, period of delay, and other measures as appropriate and as defined by the Transportation Research Board of the National Research Council.

- [b] Future "No Build" Traffic Conditions: Provide similar information to that

listed in paragraph [a] above, at the future design year specified for full occupancy of the entire project, or at some other design year specified by the City Planner based upon long range City transportation study needs. Include background growth and impact of other proposed developments, excluding the project in question.

[c] Future "Build" Traffic Conditions: Provide similar information to that listed in paragraphs [a] and [b] above, assuming full occupancy of the project, with and without proposed off-site mitigating road improvements. Alternative measures for mitigation shall be analyzed if appropriate.

[d] Traffic Mitigation Plan: Description of proposed measures for mitigation, identifying those measures committed to by applicant and those measures proposed to be implemented by others. Demonstrate how the mitigation plan is coordinated with the City and/or State long range plan and/or with other projects in the same general area. Provide summary of costs of proposed measures, breakdown of component costs, calculation of pro-rata share of the cost attributable to the proponent based on impact of the project, and proposed cost sharing for improvements which may be undertaken by or funded jointly by others.

[3] Report Evaluation: See following Section D(2)(d) & (e) for traffic planning and mitigation evaluation criteria.

(o) State Curb Cut Permit:

[1] When the proposed development requiring Site Plan Approval also requires a State curb cut permit, Site Plan Approval by the City may be withheld until the applicant submits to the City Planner and Engineer a copy of the required permits issued by the Commonwealth of Massachusetts Department of Public Works.

[2] Applicant shall submit a copy of any application for a State curb cut permit to both the City Planner and Engineer at the same time as said application is submitted to the State.

[3] The location of any curb cut must conform to the Site Plan approved by the City. The issuance of any curb cut permit prior to approval of a Site Plan shall not constrain the conditions that may be imposed by the City at Site Plan Approval.

D. Site Plan Review Criteria.

(1) Applicability:

(a) Except as provided for below, the criteria shall apply to all principle and accessory buildings and structures and to all exterior site features, however related to the major buildings or structures.

(b) Exceptions: The criteria shall NOT apply to single or two family dwellings on their own lots.

(2) Criteria: The following criteria shall be considered by the appropriate Departments in review and evaluation of a Site Plan.

(a) General:

[1] Purpose: These criteria are intended to provide general guidance to the applicant in the preparation of plans, as well as guidelines for review.

The criteria are not intended to be exhaustive, nor to be applied in cases which may prove infeasible or inappropriate to the particular circumstances.

Rather, each site should respond to its own unique conditions and problems.

The criteria are not intended to discourage creativity, invention and innovation, but are intended to encourage good design and exemplary projects offering solutions to problems created on site and off site where possible.

The issues and concerns represented by the criteria enumerated below shall be addressed in the Final Site Plan.

[2] Design Alternatives: Where an applicant believes that they will have serious practical difficulties in meeting these criteria, or a site situation is presented that may call for a different approach, then the applicant may, at the applicant's option, present information which demonstrates this concern in the preliminary stages of pre-application review. The applicant may also submit for consideration more than one alternative Site Plan, or part of said Site Plan, intending to demonstrate the above concerns. City Reviewing Departments shall take these design alternatives into account and shall not be precluded by these criteria from approving a preferred alternative layout, which in their opinion, results in the best overall solution for the particular situation and which is also more beneficial to the City and the neighborhood.

- (b) Urban and Natural Landscape: The development shall be integrated into the surrounding urban or natural landscape, and shall be designed to protect abutting properties and community amenities to the extent practicable and appropriate. Development shall, to the extent practicable: Minimize destruction of unique, valuable, natural or historical features; minimize removal of mature trees and vegetation; where tree coverage does not exist, or has been removed, new planting may be required; maximize retention of open space; minimize noise and dust; screen objectionable features from neighboring properties and roadways; provide linkages and foot trails between open spaces accessible to the public or potentially accessible to the public where practical and in accordance with the City's Open Space and Recreation Plan, Master Plan or Neighborhood Plan subject to applicable law; provide important wildlife corridors to preserve existing habitat or enhance habitat where practical. These criteria shall be used for review by the Planning and Conservation Departments and others as may be appropriate.
- (c) Building and Service Area Design and Operation: Buildings shall, to the extent practicable, be related harmoniously with the prevailing character of buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include siting of buildings, use of appropriate building materials, screening, breaks in roof and wall lines and other techniques, and shall provide adequate light, air, circulation, and separation between buildings. Variation in detail, form and siting may be used to provide visual interest and avoid monotony. Exposed storage areas, machinery, service areas, loading areas, utility buildings and structures, exterior brightly lighted areas, and other unsightly or noisy uses, or uses having a potential adverse impact, if permitted in the district, shall be clearly identified on the Site Plan and shall be set back, buffered, screened or otherwise designed so as to protect the neighbors from objectionable impact or features. These criteria shall be used for review by the Planning and Building Departments and others as may be appropriate.

Professional architectural advice may be sought in the review process where necessary.

- (d) Traffic and Pedestrian Movement: The plan shall maximize convenience and safety of vehicular and pedestrian movements occurring or likely to occur both within the site and also in relation to ways likely to be affected by traffic from the site. The plan shall demonstrate adequate circulation and access within the site, as well as adequate access to and from the site and along streets affected by the site, and shall include provision for proposed traffic or pedestrian improvements located off-site if deemed necessary. (See following sub-paragraph (e) for determination of adequacy of off-site mitigation.) Streets, sidewalks and raised curbing along the site frontage shall be upgraded to City standards if required. These criteria shall be used for review by the Engineering and Planning Departments and others as may be appropriate. The plan shall also demonstrate the following:

[1] Efforts to minimize:

- [a] Points of conflict between vehicular and pedestrian movement, and between different vehicular movements.
- [b] Routing of traffic through predominantly residential streets.
- [c] Left turning movements on street.
- [d] Number of curb cuts.
- [e] Number of vehicular trips on street.

[2] Efforts to maximize:

- [a] Distance between curb cuts.
- [b] Sharing of curb cuts and common driveways with adjacent sites or lots, where warranted by traffic or topographic considerations.
- [c] Interconnection between driveways, parking lots and pedestrian pathways on adjacent sites or lots, thereby avoiding congestion and inconvenience caused by use of streets for access to adjacent sites.
- [d] Separation of pedestrian, bicycle and vehicular circulation.
- [e] Convenience of circulation system layout in order to enhance pedestrian and/or public transportation.
- [f] Site distance and safety.

[3] Parking Location and Transportation Systems Management: Parking location and access may be required to meet City and/or State policies and plans related to transportation systems management, intended to reduce reliance on the automobile and to reduce traffic congestion. For example, parking may be better located behind certain uses, such as offices, in order to encourage pedestrian access between buildings, public transit, ride-sharing and other modes of transportation.

- (e) Off-Site Traffic Impact Report and Traffic Mitigation Criteria (where

required): (See Section C(2)(n) for information which may be required in a Traffic Impact Report.) These criteria shall be used for review by the Planning and Engineering Departments and others as may be appropriate. Traffic mitigation criteria shall include the following where appropriate:

[1] Mitigation Measures: Mitigation measures may include but are not limited to non-structural measures. e.g: transportation demand management, arrangement of uses on site, timing of lights, re-striping, etc. as well as structural/engineering solutions, e.g: roadways, signalization, land widening. Non-Structural mitigation measures should be used first to minimize the amount of traffic generated by a project, then structural measures should be pursued to minimize the traffic impacts of a project.

[2] State Guidelines: Mitigation measures should be developed in a manner compatible with current MDPW/MEPA "Guidelines for EIR/EIS Traffic Impact Assessments" as may be amended and as may be deemed applicable.

[3] Conformance to Area-Wide Long Range Plan for Traffic: The traffic mitigation plan shall, where possible, be compatible with long range plans developed or promulgated by various City or State Departments, Agencies or Commissions or Committees, so that construction of traffic improvements can take place in phases if necessary, with minimal waste or disruption when future improvements are made by others.

[4] Commitment to Mitigation: Site Plan Approval may be subject to an agreement to preform an overall mitigation scheme or funding program meeting the above criteria.

[5] Degree of Mitigation:

[a] Pro-Rata Share: To the extent that the project impacts on State and/or local transportation systems, the project proponent shall provide a minimum of its pro-rata share of the cost of mitigating those impacts. Alternatively, the proponent may be required to carry out structural/engineering solutions at locations to be identified by the above referenced City departments to the extent practicable and in proportion to their pro-rata share. Where pro-rata share cannot be established on a formula basis, then a share amount shall be established which, in the opinion of the above designated City departments, is reasonable based on the information in the traffic report and other relevant information.

[b] Mitigation Design Goals:

[i] Pre-Construction or Better: For all intersections and segments, the goal of mitigation is to restore operations to pre-construction conditions or better.

[ii] Failing Intersections: For failing intersections (level of service "E" or "F") pre-construction, the goal of mitigation is to provide Level Of Service "D" or better. (This may require pooling of mitigation funds by several proponents in order to carry out more costly but more effective long term improvements.)

[iii]Coordinated Design:

For complex or major intersections requiring joint effort by several proponents: Project proponents will be expected to provide mitigation commensurate with the impact of their project in a coordinated manner. Alternative plans may be required prior to approval which address mitigation for any future design year specified by the City Planner under Section C2(n)(2) commensurate with other projects or planning studies.

- (f) Public Safety Criteria: The development shall, at a minimum, provide adequate means for emergency vehicular access, and the Site Plan shall be reviewed for any factor affecting public safety. These criteria shall be used for review by the Police and Fire Departments and others as may be appropriate.
- (g) Storm Drainage and Erosion Control: The Site Plan shall show adequate measures to prevent pollution of surface or ground water, to minimize erosion, sedimentation, increased rate of run-off and potential for flooding, and other adverse impacts on abutting property. Drainage shall be designed so that the downstream rate of run-off shall not be increased. These criteria shall be used for review by the Engineering and Conservation Departments and others as may be appropriate.
- (h) Wetlands and Floodplains: The Site Plan shall be consistent with the requirements of Ch. 200, §19, of the Code of the City of Marlborough as amended, and with Massachusetts General Laws Ch. 131, §40 and §40A as amended.
- (i) Sewer and Water: The development shall be serviced by adequate water supply and waste disposal systems and shall not place excessive demands on City infrastructure. These systems shall be in conformance with the City Master Plan or long range plan for such infrastructure. These criteria shall be used for review by the Engineering Department and others as may be appropriate, and in cases where septic systems are required by the Board of Health.
- (j) Utilities: Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible. These criteria shall be used for review by the Engineering and Planning Departments and other as may be appropriate.
- (k) Advertising Features: The size, location, lighting and materials of all exterior signs shall conform with Ch. 163 Sign Ordinance as amended. The design of signs and abutting features shall not detract from the design of proposed buildings and structures and surrounding properties. All signs shall be reviewed as an integral element in the design and planning of all development on the site, and all existing signs on site shall be brought into conformity as a requirement of Site Plan Approval. These criteria shall be used for review by the Planning and Building Departments and others as may be appropriate.
- (l) Construction Impact: The development shall minimize dust, noise, erosion, inconvenience or other disturbance during the construction process. These criteria shall be used for review by the Planning, Building, Engineering,

and Conservation Departments and other as may be appropriate.

- (m) City Ordinances: The Site Plan shall comply with all requirements of Ch. 200, Zoning and other applicable Ordinances of the City of Marlborough, and with all other provisions of this Section, as amended.

(3) Time Limit for Compliance: All exterior site conditions existing at the time of adoption of this Section shall be brought into compliance with this Section to the maximum practical extent at the time when a new Site Plan or an amended Site Plan is required as specified by this Section, and before use or occupancy or change of use or occupancy of said site, subject to Massachusetts General Laws Ch. 40A et al. If any elements of the existing development are non-conforming with Zoning, they shall be upgraded so that they conform after the new proposal has been completed, to the maximum practical extent.

(4) Plan Modifications: Before issuing approval of a Site Plan, the Reviewing Departments may request the applicant to make modifications in the proposed design of the project to ensure that the above criteria are met.

(5) Conditions: Site Plan Approval may be subject to conditions, modifications and restrictions imposed by the Reviewing Departments identified below. Such conditions may include requirements for contributions toward or implementation of off-site improvements needed as a result of the impact of the development, restrictions on the use of curb cuts accessing the site, and requirements for securing the performance of all proposed work, including proposed off-site improvements, by a performance bond, covenant or similar instrument as appropriate.

E. Approval Action by City Departments

(1) Review and Coordination:

- (a) Coordinating Department: The department identified below shall be the City Coordinating Department responsible for determining the requirements deemed applicable to the Site Plan, and shall assist applicants by providing information about the City's requirements. In addition, said department shall coordinate review by other City Departments responsible for Site Plan Review as indicated in paragraph (3) below:

[1] Minor Residential Projects: The Building Department. See definition of projects in Section B(1).

[2] Non-Residential and Major Residential Projects: The Planning Department. See Definition of projects in Section B(1).

- (b) Phased Approvals: Applicants may request approval of Site Plans in phases. Said request shall be in writing and must be agreed to by the Coordinating Department identified in Paragraph (a) above.

(2) Certification of Completeness of Application:

- (a) Certification: The Coordinating Department (identified in paragraph (1) above) shall, within thirty (30) days, review the material submitted with any formal written application as defined in Section B(3), and shall certify as to the completeness of the application. Said certification shall not imply that the application will be approved, nor limit the conditions or modifications that may be required prior to Site Plan Approval.

- (b) Completeness: A submission shall not be considered complete until all items required under Sections B and C, including impact reports required under Section C(2)(m) and (n), have been properly completed and submitted, until any Environmental Impact Reports required by the State of Massachusetts have been certified as adequately complying with State requirements, and until any Special Permit or Variance required by Ch. 200, Zoning has been granted. Any Order of Conditions required from the Conservation Commission may be issued after Certification of Completeness.

(3) City Departments Responsible for Final Review and Approval:

- (a) Minor Residential Projects: See definition in Section B(1). Site Plan Approval shall be required from the Engineering and Building Departments, and in addition the Conservation Department, Board of Health and other departments as may be necessary, if so required by the Building Inspector in writing.

(b) Non-Residential and Major Residential Projects: Site Plan Approval shall be require from the following City departments: Planning, Engineering, Building, and in addition Conservation, Fire, Police, Board of Health and other departments as may be necessary, if so required by the City Planner in writing.

(4) Final Action by City Departments:

(a) Transmittal: Final action by each Department designated above shall be transmitted in writing to the Coordinating Department identified in Paragraph (1) above.

(b) Final Action shall consist of either:

[1] approval of the Site Plan as submitted, or;

[2] approval of the Site Plan subject to conditions, modifications, and/or restrictions set forth therein which in the opinion of the City Reviewing Departments are necessary to cause the Site Plan to meet the Site Plan Review Criteria set forth in Section D; or

[3] denial of the application for Site Plan Approval if in the opinion of the City Reviewing Departments the application is incomplete or the Site Plan fails to meet any one or more of the Site Plan Review Criteria set forth in Section D, and the applicant fails or declines to make such amendments to the Site Plan as are necessary to cause the Site Plan to meet said criteria.

- (c) Time Period for Action: Except as provided below under extensions of time, Final Action of the City Reviewing Departments shall be made within the time periods specified below following the date of Certification of Completeness of Application:
 - [1] Minor Residential Projects: Forty-five (45) days.
 - [2] Non-Residential and Major Residential Projects: Ninety (90) days.
- (d) Extensions of Time for Final Action: A department may communicate to the Applicant the necessity for an extension of time, based upon clearly defined reasons. Said extension shall not exceed a period of sixty (60) days unless agreed to in writing by the Applicant and the Reviewing Department.
- (e) Re-submittal of Denied Site Plan: Applicant may, at the Applicant's option, re-submit at any time a Site Plan with such modifications necessary to correct the reasons for denial. The City Reviewing Departments shall act on said re-submittal within the time periods provided in paragraph (c) above. Application fees for a re-submittal shall be twenty-five percent (25%) of any fees for a new submittal, provided said re-submittal shall occur within one (1) year of denial.
 - (5) Certification of Final Site Plan: As provided for by Section H, the City Reviewing Departments may adopt rules relating to the procedure for administration and record keeping of Final Action and approval of Final Site Plans. Said procedures may include, but shall not be limited to, Certification by all appropriate City Reviewing Departments of an approved Final Site Plan incorporating all changes and with conditions, if any, attached in writing.
 - (6) Deviations from Final Site Plan: Deviations may be allowed under the following circumstances:
 - (a) Minor deviations: if specifically sanctioned in writing by the Building Inspector;
 - (b) Major deviations: if specifically sanctioned in writing by all Reviewing Departments listed in Paragraph (3) above as appropriate;
 - (c) All Changes Involving the Requirements of Section 63-6 (Road Opening/Curb Cut Permits): if specifically sanctioned in writing by the City Engineer and City Planner.

(7) As-built Site Plan Required Upon Completion:

Upon Completion of the project requiring such Site Plan, and prior to the issuance of an occupancy permit, there shall be forwarded to the Department of Public Works, Engineering Division, Site Plans depicting as-built conditions, as follows:

- (a) For single and two family dwellings: a standard blueprint.
- (b) For all buildings or developments other than single and two family dwellings: sepia mylar.

(8) Implementation and Completion of Plan:

- (a) Time Period: An approved or conditionally approved Site Plan shall be carried into effect and completed by the Applicant within two (2) years of the date of Final Action.
- (b) Extension of Time: The City Coordinating Departments, identified in Paragraph (1) above, may at the time of the approval or conditional approval of any Site Plan or thereafter, upon application therefore, grant such extensions of time, each not longer than one (1) year, as they shall deem necessary to carry the Site Plan into effect.

(9) Re-Application and Re-Submission:

- (a) General: Any re-application and re-submission required shall be in accordance with the provisions of the Code of the City of Marlborough at the time of re-application. Submission materials required for re-application shall be as deemed necessary by the Coordinating Departments identified in Paragraph (1) above.
- (b) Nothing herein shall be deemed to extend the time periods for compliance with other State or local ordinances.

F. Prior Earth Moving:

(1) Purpose.

This Section is intended to protect the public health, safety and welfare, and the natural environment from destructive earth moving operations prior to receiving approval of Final Site Plans, while allowing commencement of prior earth moving under certain safeguards.

(2) Definition.

For the purposes of this Section, prior earth moving shall mean the removal, fill or change of grade of earth materials, and the cutting of wooded areas which are undertaken in order to establish new uses on the site, or to construct or locate buildings and features accessory thereto such as ways, driveways, areaways, walks or parking areas, and these activities shall be considered a part of construction and development.

(3) Prior Approval Required.

Prior earth moving for the purposes defined above shall be subject to approval under this Section. See Section A(2)(b).

(4) Special Provisions.

Prior earth moving as defined above shall be allowed without prior review and approval under this Section for the following uses:

- (a) Construction of one and two family dwellings.
- (b) Land clearance for agricultural or forestry purposes.

(5) Preliminary Site Plan.

Where prior earth moving is intended to precede construction by several months, the submission and approval of the Site Plan may be undertaken in two (2) stages at the option of the applicant: a Preliminary Site Plan stage and a Final Site Plan stage.

(6) Submission Requirements.

The information for the Preliminary Site Plan shall be less than required for the Final Site Plan. The information shall be limited to property boundaries, existing and proposed topography at two (2) foot or lesser contour intervals, the general character of soil to be removed (based on classification of the U.S. Soil Conservation Service), or soil to be added or relocated, the location of woodlands, wetlands and floodplains, the location and depth of any utility conduits or pipes and the approximate location of any existing and proposed buildings, structures, driveways or physical features accessory thereto. Other material shall be submitted only if deemed necessary by the Reviewing Departments.

(7) Review and Approval.

- (a) The procedure for review and approval of Preliminary Site Plans shall be identical to the procedure established above for Final Site Plans, except that the Reviewing Departments shall be limited to Planning, Engineering, Building and Conservation, and shall not include other departments unless required by the Coordinating Department identified in Section E(1).
- (b) The Preliminary Site Plan shall be treated as a separate Site Plan for the purposes of this Section, and the approval of the Preliminary stage of a Site Plan shall not be construed to assure the subsequent approval of the Final Site Plan.

G. Enforcement.

(1) Building Permit Effective Date:

A Final Site Plan must be approved prior to issuance of a building permit which may otherwise be required for the development.

(2) Compliance Prior to Issuance of Certificate of Use and Occupancy:

No certificate of Use and Occupancy shall be granted until the provisions outlined in Section 63-9C have been complied with.

(3) License or Permit (if required):

Approval of any license or permit application, or license or permit renewal pending before any City Board, Agency or Commission administering a municipal ordinance or regulation, may be withheld at the discretion of said Board, Agency or Commission, until notification by the Building Inspector, or other Department responsible for Site Plan Review and Approval, that the development and any associated on-site or off-site improvements comply with the approved Final Site Plan and any conditions imposed thereon.

(4) Period of Validity of Site Plan Approval. See Section E(8).

(5) Performance Bond: See Section D(5).

(6) Enforcement Officer:

- (a) Designated Officer: The Building Inspector is hereby authorized and directed to enforce all of the provisions of this Article.

(b) Site Inspections: The City Reviewing Departments, their agents, officers, and employees, shall have the authority to enter upon privately owned land for the purpose of performing their duties for the administration and review of this Ordinance, and may make or cause to be made such examinations, inspections or surveys as said Departments deem necessary.

(7) Penalties:

(a) Any owner of property who violates or permits a violation of this Section shall be subject to a fine of fifty dollars (\$50.) per day, said fine to be assessed each and every day the violation continues after issuance of a violation notice by the Building Inspector upon the identified violator.

All fines shall be payable to the City of Marlborough through the City Clerk's Office.

(b) In addition to the procedures for enforcement as described above, the provisions of this Ordinance, the conditions of an approval granted under this Ordinance, or any decisions rendered by the City Reviewing Departments under this Ordinance may be enforced by the Building Inspector by non-criminal complaint pursuant to the provisions of General Laws, Ch. 40, §21D. The fine for any violation disposed of through this procedure shall be fifty dollars (\$50.) for each offense. Each day such violation continues shall be deemed a separate offense.

H. Rules on Procedure.

The Departments responsible for Site Plan Review and Approval may, upon joint agreement, periodically amend or add rules and regulations relating to the procedures and administration of this Section. The Planning Department shall be responsible for issuing the rules, if any.

I. Appeals.

Appeals from this Ordinance shall in the first instance be to the Zoning Board of Appeals, as governed by Massachusetts General Laws Ch. 40A.

63-6 Road Opening/Curb Cut Permit.

J. Permit Required: When the lot to be built on abuts a State highway or City street, or requires a State curb cut permit for any reason, the application for a building permit shall accompanied by approval in writing issued by either the State Department of Public Works or the City of Marlborough Department of Public Works, or both, as the specific application may require, for any driveway openings, road openings and any and all connections for water, sewer or surface water drainage. Such requirement shall be extended to all applications for a building permit, including such special permits or variances as are issued by the City Council or any other City Agency as specified under the regulations of Ch. 200, Zoning.

K. Conformance to Site Plan: The location of any curb cut must conform to the approved Site Plan. The issuance of a curb cut permit to approval of a Site Plan shall not constrain the conditions that may be imposed at Site Plan Approval.

L. Condition of Permit: In all cases, said curb cut permit shall automatically

be limited to the project granted Site Plan Approval. Any substantial change in use of the curb cut (see below) shall require modification of the permit or application for a new permit which may contain new restrictions. "Substantial change" shall mean an increase of ten percent (10%) or more in vehicle trips caused by expansion of the project or by a change of use from one category to another as listed in the "Table of Off-Street Parking Requirements" in Ch. 200, Zoning, or the Code of the City of Marlborough, or by addition of a drive-thru facility, or a substantial impact on traffic caused by a change in the type, pattern or timing of such traffic.

63-7 Building Permit.

M. Permit Required.

(1) Buildings:

- (a) General: No building, structure or mobile home shall be erected, enlarged or altered by any person, (except as noted below), unless a Building Permit therefor has been first granted by the Inspector to such person.
- (b) Exception: The only exception to the above shall be ordinary repairs as defined by the State Building Code, and one story accessory wooden buildings less than sixty-five (65) square feet, provided they meet the zoning yard requirements and are not for human occupancy.

(2) Site Work Not Including Building or Structure: No work described under Section 63-5A (2) and (3) governing applicability of Site Plans, shall be undertaken by any persons unless approval therefore has first been granted by the Inspector to such person. The only exceptions to the above shall be as listed under Section 63-5A(3)(b). Unpaved or gravel areas shall not be paved without receiving prior approval therefore.

- N. Applications: Any person seeking a Building Permit shall file an application for such permit with the Inspector on forms furnished by the Inspector.
- O. Construction Standards: The applicant for a Building Permit shall submit plans and specifications for such work or buildings as required by the State Building Code.
- P. Review and Approval: The plans and specifications in Sub-Section C above shall be submitted to the Inspector and any other department or agency the Inspector designates, for examination, approval and filing.
- Q. Effective Date: Such application shall not be considered complete and shall not take effect until a Final Site Plan, if applicable, has been approved under this Ordinance.

63-8 Demolition Permit

- R. Demolition Permit Required: Any person seeking to raze, demolish or remove a building, or significant portions thereof, shall first apply for a Demolition Permit from the Building Inspector. No Demolition Permit shall be issued until after Debris Removal Requirements have first been complied with.
- S. Debris Removal Requirements: Said person shall comply with the applicable provisions of Ch. 89-26 Debris Removal, and applicable State and Federal regulations regarding debris removal.
- T. Extermination Required:
 - (1) Requirement: Extermination may be required by the Board of Health before issuance of permit to demolish. The building owner or his agent shall carry out effective measures for rodent extermination over the entire premises.
 - (2) Method of Extermination: The method of extermination employed shall be in successful use locally and shall meet with the prior approval of the Board of Health. Upon completion of the extermination work, the building owner or his agent shall present a statement to the Board of Health that the extermination of rodents has been carried out by the use of acceptable methods. The Board of Health shall then review the methods used, inspect the premises and, if the results are satisfactory to the Board, it will issue a letter to the Building Inspector informing him of the satisfactory completion of the requirement. The Building Inspector shall then issue the demolition permit if all other requirements of the application for the permit have been met.

63-9 Certificate of Use and Occupancy

- U. Certificate Required: No person shall use or occupy and building of any type, mobile home or portion thereof, before a certificate of use and occupancy is issued for such use by the Building Department, in accordance with the provisions of the State Building Code.

- V. Applicability and Application: The owner of any building being built, altered, remodeled, or modified is use, shall be responsible for arranging for inspections by the various departments listed on the application for occupancy, and shall submit a completed application to the Building Department.
- W. Conformance to Site Plan and Sign Ordinance: No certificate shall be granted by the Building Inspector until the development, including buildings, site work, landscaping, signs and any associated off-site improvements conform to the approved Final Site Plan, and all conditions imposed on the Final Site Plan have been complied with, and until all signs are in conformity with, and until all signs are in conformity with the requirements of Ch. 163, Sign Ordinance.
- X. Temporary Certificate: Notwithstanding the above, a temporary certificate may be granted subject to conditions for completion of work.

63-10 Certificate of Completion.

Y. At the option of the Building Inspector, prior to issuance of a Certificate of Use and Occupancy, and upon satisfactory completion of a building or structure, or part thereof, the Building Inspector may issue a Certificate of Completion for said project, such that it meets the terms of the approved building permit. The issuance of a Certificate of Completion shall not be authorization for use or occupancy.

Z. Reserved.

- 63-11 Reserved.**
- 63-12 Reserved.**
- 63-13 Reserved.**

63-14 Severability.

If any section, sub-section, sentence, clause, phrase or other portion of this Article is for any reason declared or held invalid or unconstitutional by a court of competent jurisdiction, then such section, sub-section, sentence, clause, phrase or other portion shall be deemed to be a separate, distinct and independent provision, and such declaration or holding shall not affect the validity of the remaining provisions hereof.

End of Amendment.