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DEFINITIONS (Added March 2000)

Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. The following words are specifically defined.

ABUTTER: Abutter means any person whose property adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

ACCESSORY APARTMENT: One apartment provided it is located within a single-family dwelling; and is clearly a subordinate part thereof; and has safe and proper means of entrance and exit.

ACCESSORY BUILDING: A building whose purpose is subordinate to that of the main building. It may be separate from or attached to the main building. For the purpose of this Ordinance a breezeway, a garage or a carport that is attached directly, or by means of another structure, to the main building shall be regarded as an integral part of the main building. Any accessory structure over 1,200 square feet will require Planning Board approval first. (Amended March 2005)

ACCESSORY USE: Any subordinate use of premises which customarily is accepted as a reasonable corollary to the principal use thereof and which is neither injurious nor detrimental to the neighborhood.

ADULT USE: A business where more than 25% of the gross revenues, 25% or more of the stock in trade, or 25% or more of the goods or paraphernalia displayed are of a sexually oriented or sexually explicit nature. Such goods and paraphernalia include, but are not limited to sexually explicit books, videos, or devices. Examples of adult uses include, but are not limited to, theaters or mini-motion picture displays where sexually explicit films or videos are shown, nude modeling studios, massage parlors, escort agencies or sexual encounter centers. Businesses where body piercing and tattoos are performed shall be considered adult uses unless completed by a licensed physician in their place of practice.

AGRICULTURE, FARM, FARMING: For the purposes of this Ordinance the definition shall reference NH RSA 21:34-a as amended.

ALTERATION: Any alteration of a building or a fabricated structure means a change, rearrangement, or addition involving the original structural parts, or significant changes, or additions to the plumbing, gas piping, electrical wiring, ventilation, or heating installations. Such alterations are not to be confused with replacements or repairs.

ANIMAL FEEDLOT: A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock.

AQUIFER: For the purpose of this Ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal, private, or public water supplies. (Amended March 2012)

BEDROOM: A room with an interior door that is primarily intended for sleeping. (Amended March 2012)

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING COVERAGE: The aggregate or the maximum horizontal cross section area of all buildings on the lot including accessory buildings but excluding cornices, eaves, or gutters projecting not more than thirty (30) inches. Structures less than eighteen (18) inches above ground level shall not be included in calculating building coverage.

BUILDING INSPECTOR: The duly appointed building inspector, or any other duly designated agent, as appointed by the Board of Selectmen. Such agent(s) shall possess and be vested with all the rights, authority, responsibility and protections accorded the building inspector within the jurisdiction of his/her appointment by the Selectmen.

BUILDING HEIGHT: The vertical distance measured from the average level of the grade at the building line to the highest point of the roof, excluding chimneys, ventilators, silos, and other accessory features required above the roof.

CERTIFICATE OF OCCUPANCY: A statement signed by the Building Inspector setting forth either that a building or structure complies with this Ordinance or that a building, structure or parcel of land may lawfully be occupied for specified uses or both.

CERTIFIED SOIL SCIENTIST: A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

CONDITIONAL USE: A use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the Planning Board and granting of conditional use approval imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or vicinity. (Added March 2005)

CONDOMINIUM: Real property, and any interests therein, lawfully submitted to RSA 356-B by the recordation of condominium instruments pursuant to the provisions of RSA 356-B.

CONTIGUOUS: Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous.

DEMOLITION: Destruction of a structure or portion thereof or commencement of work with the purpose of completing the same except in conjunction with construction of a permitted addition or alteration. Demolition shall include the cutting away of any wall, partition, portion thereof or the removal or cutting of any structured beam or bearing support affecting the exterior of the structure.

DEVELOPABLE AREA: An area of 43,560 square feet or minimum lot size as defined by soil type lot size regulations as adopted by the Town of Newton.

DUPLEX: A building designed and/or used for residential purposes and containing two principal dwelling units separated by a common party wall or otherwise structurally attached.

DWELLING: A building or portion thereof containing one or more dwelling units, but not including hotels, motels, rooms of a boarding house, clubs, lodges, trailers, or structures solely for transient or overnight occupancy.

DWELLING UNIT, SINGLE FAMILY: A detached building designed for or occupied exclusively by one family.

EASEMENT: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

EXCAVATION: Excavation means a land area which is used, or has been used, for the commercial taking of earth, including all slopes, pursuant to RSA 155-E:1.

FAMILY: Individuals occupying a dwelling unit and living together as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FRONTAGE: The horizontal distance measured along a lot line dividing a lot from a street. Driveways to single rear lots shall not be construed as frontage. In the case of corner lots, frontage and front lot lines shall mean the dimensions and lines on one street.

GROSS FLOOR AREA: The sum of the area of the several floors of the buildings as measured by the exterior faces of the walls, but excluding the areas of fire escapes, porches or terraces, and areas such as garages, basements and attics exclusively devoted to uses accessory to the operation of the building. (Amended March 2007)

HOME BASED BUSINESS: Any individual business or profession conducted entirely within a dwelling or accessory building which is incidental to the dwelling and which does not change either its character or that of the neighborhood in which it is established and which is conducted by the resident owner of the dwelling, employs not more than two persons outside the immediate family and utilizes an area not to exceed twenty five percent (25%) of the total floor area

of finished floor space of the dwelling including the basement and accessory structures. (Added March 2007)

HOME OCCUPATION: Any individual business or profession conducted entirely within a dwelling or accessory building which is incidental to the dwelling such that there are no impacts detectable from beyond the property boundaries, no non-resident employees, no increase in traffic generation, no increase in parking, no outside activity or storage of any kind, and no exterior signage. (Amended March 2007)

JUNK: Two or more un-inspected motor vehicles no longer intended or in condition for legal use on the public highways; and/or any machinery, scrap metal or other worn, cast off, or discarded articles or materials ready for destruction or collected or stored for salvage or conversion to some use.

JUNK YARD: Any space more than 500 sq. ft. in area, outside a building, used for storage, keeping, processing, salvaging or abandonment of junk.

KENNEL: Any premises, site, or portion thereof, where 5 or more dogs, 10 weeks in age or older are bred, raised, trained, or kept for any reason. This definition does not include sites that are accessory to a veterinarian hospital where a licensed veterinarian practices or the SPCA.

LIGHT INDUSTRY: Includes all manufacturing and assembly processes carried on completely within a structure, and involving no permanent outside storage of equipment or materials (except as a customary accessory use in connection with the permitted activities within the structure), unless such storage is approved by the Newton Planning Board during the Site Plan Review process. Outdoor storage shall be permitted as an accessory use to a permitted use if it occupies an area of 20 percent or less of the footprint area of the principal building. Otherwise, outdoor storage shall require a special exception. All outdoor storage shall be appropriately screened from view and shall not occupy required open space or required parking areas. Light Industry shall not be interpreted to include any industry, the operations of which shall result in significant objectionable noise, glare, vibration or odor which would constitute a nuisance nor which would adversely affect other private or public properties.

LOT: A single parcel of land in the same ownership throughout as shown or defined on a recorded instrument or defined by metes and bounds and having its principal frontage on a street in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for building on such land.

LOT AREA: The extent in square feet of the surface of a lot. The lot area shall not include any part of the street upon which the lot fronts or abuts.

LOT DEPTH: The mean distance from the frontage line to the rear lot line when measured on a line halfway between the two side lot lines.

LOT LINES: The lines bounding a lot, and dividing the lot from other lots, streets or land.

LOT LINE ADJUSTMENT: The minor change of boundary lines between two abutting parcels that does not result in the creation of any new building lots.

LOT OF RECORD: A lot which is described in a deed which has been lawfully recorded in the Rockingham County Registry of Deeds, prior to the enactment of planning and zoning regulations in Newton (June 10, 1959), or which, if not so deeded, is a lot which is part of a subdivision, the plan of which has been lawfully recorded in such Registry of Deeds.

LOT WIDTH: The mean distance between the lot side lines measured on a line which is halfway between the front and rear lot lines.

MANUFACTURED HOUSING: The Town of Newton shall adhere to the definitions as prescribed by the State of New Hampshire RSAs 674:31, 31-a, & 32. The definition is as follows:

674:31: Definition. As used in this subdivision, “manufactured housing” means any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or

when erected on site, is 320 square feet or more, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a.

674:31-a: Definition; Pre-site Built Housing. As used in this subdivision, “pre-site built housing” means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this subdivision, pre-site built housing shall not include manufactured housing, as defined in RSA 674:31.

674:32: Manufactured Housing.

I. Municipalities shall afford reasonable opportunities for the siting of manufactured housing, and a municipality shall not exclude manufactured housing completely from the municipality by regulation, zoning ordinance, or by any other police power. A municipality which adopts land use control measures shall allow, in its sole discretion, manufactured housing to be located on individual lots in most, but not necessarily all, land areas in districts zoned to permit residential uses within the municipality, or in manufactured housing parks and subdivisions created for the placement of manufactured housing or individually owned lots in most but not necessarily all, land areas in districts zoned to permit residential uses within the municipality, or in all 3 types of locations. Manufactured housing located on individual lots shall comply with lot size, frontage requirements, space limitations and other reasonable controls that conventional single family housing in the same district must meet. No special exception or special permit shall be required for manufactured housing located on individual lots or manufactured housing subdivisions unless such special exception or permit is required by the municipality for single family housing located on individual lots or in subdivisions. Municipalities permitting manufactured housing parks shall afford realistic opportunities for the development and expansion of manufactured housing parks. In order to provide such realistic opportunities, lot size and overall density requirements for manufactured housing parks shall be reasonable.

II. Notwithstanding paragraph I or any law or rule to the contrary, no zoning ordinance or bylaw shall prohibit an owner and occupier of a residence which has been damaged by fire or other disaster from placing a manufactured home on the lot of such residence and residing in such structure while the residence is being rebuilt. The period of such occupancy shall expire in 12 months from the placement of such structure or upon the issuance of a certificate of occupancy, whichever occurs first. Any such manufactured home shall be subject to State and Local requirements relating to water supply and sewerage disposal. A manufactured home that is placed on a lot under this paragraph shall not attain the status of a vested nonconforming use. (Amended March 2005)

MOBILE HOMES: Housing which is assembled off-site, built on a permanent chassis, can travel to the site on its own wheels and retain forever the possibility of being relocated readily to another site. Mobile homes typically are not placed on permanent foundations, but rest on grade or a slab with skirts to conceal the wheels and undercarriage.

MOTEL, HOTEL: A building designed for or used commercially as temporary living quarters for persons who are lodged with or without meals.

MOTOR VEHICLE: Any self-propelled vehicle, including boats. (Added March 2008)

MUNICIPALITY: To mean the Town of Newton.

NON-CONFORMING BUILDING OR STRUCTURE: A lawfully constructed building or structure that does not comply with the use regulations for the zoning district in which it exists, but which complied with all applicable regulations existing at the time of the construction of the building or structure.

NON-CONFORMING LOTS OF RECORD: A lot, properly recorded at the Rockingham County Registry of Deeds, which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located.

NON-CONFORMING USE (GRANDFATHERED): Any lawful use of buildings, structures, premises, land or parts thereof

existing as of the effective date of this Ordinance, or amendment thereto, and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use. (Amended March 2003)

OCCUPANCY: The use of a structure, room or enclosed space designed for human habitation in which individuals congregate for amusement, education or similar purposes, or in which occupants are engaged at labor, where the structure, room or enclosed space is equipped with means of egress, light, and ventilation facilities meeting the requirements of the Town's Building Ordinance.

OPEN SPACE: Land or water area free of all structures, parking, drives, and other uses which preclude attractive landscaping in such area. Open space may be landscaped with lawn, trees, shrubs, or other planting and may include walks and terraces.

PLANNING BOARD: The Planning Board of the Town of Newton.

RECREATIONAL VEHICLE: A vehicle designed to be used for temporary occupancy for travel, recreational or vacation use.

REPAIR: Replacement or mending of parts already existing but in a state of deterioration with equivalent materials and for the purpose of maintaining their quality.

RIGHT-OF-WAY: All town, state and federal highways and the land on either side as covered by statutes to determine the widths of the rights-of-way.

SCHOOL: An institution for instruction of children and/or adults in a formal setting with a prescribed curriculum and certified teachers.

SEASONAL HIGH WATER LEVEL: The average annual high water elevation of a stream, brook or river, including contiguous wetlands and floodplains.

SELF-STORAGE OR WAREHOUSING: A business or use that consists of individual, self contained units, that may or may not vary in size, that are leased or owned for the storage of business equipment, supplies, household goods, or other items.

SETBACK, FRONT: The distance extending across the full width of a lot between the front lot line and the foremost point of the foremost part of the structure. In the case of a corner lot the front setback shall mean the distance measured from both intersecting streets.

SETBACK, REAR: The distance extending across the full width of a lot between the rear lot line and the rearmost point of the rearmost part of the structure nearest the rear lot line.

SETBACK, SIDE: The distance between a side lot line and the nearest point of the nearest part of a structure to it, extending from the required front setback to the required rear setback.

SIGN: Any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or business. A sign shall include writing, representation or other figure of similar character within a building only when illuminated and located in a window.

SIGN, ATTACHED: A sign which is attached to a building wall and which extends eighteen (18) inches or less from the face of such wall.

SIGN, CONTRACTOR'S: A temporary sign advertising the contractor or development firm actively engaged in developing the site or parcel on which the sign is located.

SIGN, FLASHING: Any sign or signal light with continuously variable illumination, whether achieved electrically or mechanically.

SIGN, FREE STANDING: A sign which is not attached or affixed to a structure or building and which is supported by a pole(s) or other supporting members.

SIGN, PROJECTING: A sign which is attached to a building wall and which extends more than eighteen (18) inches from the face of such wall.

SIGN, REAL ESTATE: A temporary sign used by a real estate organization to advertise the site or parcel on which the sign is located.

SIGN, SURFACE AREA OF: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such perimeter which do not form an integral part of the display. For projecting or double-faced signs, only one (1) display space shall be measured in computing total surface area where the sign faces are parallel or where the interior angle formed by the faces is ninety (90) degrees or less.

SITE PLAN: A site development plan for non-residential, multi-family (rental units, condominiums and condominium conversions) and expanded home occupation uses drawn to adequate scale on a permanent medium, showing such information about the proposed development, including lot dimensions, size and location of facilities and site conditions, as are required in the Planning Board Site Plan Review Regulations. (Amended March 2012)

SPECIAL EXCEPTION: A use allowed by the Zoning Ordinance but under pre-determined conditions and after a public hearing before the Board of Adjustment to determine if the conditions have been met.

STORY: That part of a building or structure comprised between a floor and the floor or roof next above it.

STREET: A street shall mean a right-of-way which has been dedicated or intended for public travel, or a private way offering the principal means of access to abutting properties.

STRUCTURE: Anything constructed or erected, the use of which demands its permanent location on the land, or anything attached to something permanently located on the land. This definition shall include the tank and leaching bed of a septic system (but not the lateral fill extension of a leach field).

STRUCTURAL ALTERATION: Any change in the supporting members of a building or structure, such as load bearing walls, columns, beams or girders.

SUBDIVISION: The division of a lot, tract, or parcel of land into 2 or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. It includes re-subdivision, and, where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision under this title, per RSA 672:14.

VARIANCE: A variance is a waiver or relaxation of particular requirements of an ordinance when strict enforcement would cause undue hardship because of circumstances unique to the property. The Zoning Board of Adjustment is empowered to grant variances.

WETLAND: Any area falling within the jurisdictional definitions of Newton Wetland Ordinance. The Town of Newton has adopted the following language of RSA 482-A:2X. "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support a prevalence of vegetation typically adapted for life in saturated soil conditions. (Amended March 2005)

The Town of Newton has also adopted the following language of RSA 674:55 as further wetlands definition:

674:55: Wetlands. Whenever the term "wetlands" whether singular or plural, is used in regulations and ordinances adopted pursuant to this chapter, such term shall be given the meaning in RSA 482-A:2,X and the delineation of wetlands for purposes of such regulation and ordinances shall be as prescribed in rules adopted under RSA 482-A. Nothing in this subdivision shall be construed to limit the powers otherwise granted under this chapter for

municipalities to plan land use and enact regulations based on consideration of environmental characteristics, vegetation wildlife habit, open space, drainage, potential for flooding and protection of natural resources, including critical or sensitive areas or resources and groundwater. In the context of such authority, municipalities may define and delineate resources or environmental characteristics, such as wet soils or areas, and shoreline or buffer areas, in a manner different from the common meaning and delineation of wetlands required herein. (Added March 2005)

YARD: An open space from the ground upward and open to the sky on the same lot with a building or a structure.

YARD, FRONT: A yard extending across the full width of a lot between the street right-of-way line and the nearest point of any building. In the case of a corner lot or waterfront lot, the front yard is the yard bordering the principal street. Front yard dimensions are to be measured from the street where a plan of the street is on file with the Registry of Deeds or in the Town records, or in the absence of such plan, from a line thirty (30) feet from property line, parallel with the center line of the traveled way.

YARD, REAR: A yard extending the full width of the lot along the rear lot line and extending in depth from the nearest point on the rear lot line to the nearest point of the principal building or buildings.

YARD, SIDE: A yard extending from a front yard to the rear yard and from the nearest point of a side lot line to the nearest point of the principal building or buildings.