

SECTION XXXIV FLOODPLAIN DEVELOPMENT ORDINANCE (added March 2007, amended March 2009)

This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Newton NH Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Newton, NH Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provisions of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

The following regulations in this Ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its “Flood Insurance Study for the county of Rockingham, NH”, dated May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

Section 1

Definition of Terms: The following definitions shall apply only to this Floodplain Development Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Newton, NH.

1. “Area of Special Flood Hazard” is the land in the floodplain within the Town of Newton, NH subject to a 1 percent or greater chance of flooding in any given year. The area is designated on the FIRM as Zones A and AE.
2. “Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.
3. “Basement” means any area of a building having its floor sub grade on all sides.
4. “Building” -see “structure”.
5. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
6. “FEMA” means the Federal Emergency Management Agency.
7. “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters, or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
8. “Flood Insurance Rate Map” (FIRM) means the official map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Newton, NH.
9. “Flood Insurance Study” (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.
10. “Floodplain” or “Flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

11. “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.
12. “Floodway”- see “Regulatory Floodway”
13. “Functionally dependent use” means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.
14. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
15. “Historic Structure” means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. by an approved state program as determined by the Secretary of the Interior, or
 2. directly by the Secretary of the Interior in states without approved programs.
16. “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a buildings’ lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
17. “Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.
18. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
19. “Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map is referenced.
20. “New Construction” means, for the purposes of determining insurance rates, structures for which the start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain

management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

21. “100-year flood” - see “base flood”
22. “Recreational Vehicle” is defined as:
 - a. built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. designed to be self-propelled or permanently towable by a light duty truck; and
 - d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
23. “Regulatory floodway” means the channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation.
24. “Special flood hazard area” See- "Area of Special Flood Hazard"
25. “Structure” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
26. “Start of Construction” includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.
27. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
28. “Substantial Improvement” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:
 - a. the appraised value prior to the start of the initial repair or improvement, or
 - b. in the case of damage, the value of the structure prior to the damage occurring.

For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvements of a structure required to comply with existing health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

29. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Item V, Item VII(2b), or Item VII(3)(4) is presumed to be in violation until such time as the documentation is provided.
30. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Section 2 Permits:

All proposed development in any special flood hazard areas shall require a permit.

Section 3 Construction Requirements:

The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- a. be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b. be constructed with materials resistant to flood damage,
- c. be constructed by methods and practices that minimize flood damages,
- d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 4 Water and Sewer Systems:

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Section 5 Certification:

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

- a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- c. any certification of flood proofing.

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

Section 6 Other Permits:

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Section 7 Watercourses:

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notifications to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau and Zoning Board of Adjustment.
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

“No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.”
4. Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.
5. Until a Regulatory Floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted with Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 8 Special Flood Hazard Areas:

1. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).
2. The Building Inspector’s 100-year flood elevation determination will be used as criteria for requiring in Zones A and AE that:
 - a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level;

or together with attendant utility and sanitary facilities, shall:

1. be flood proofed so that below the 100-year flood elevation that structure is watertight with walls substantially impermeable to the passage of water.
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
- c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the one hundred (100) year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
1. All recreational vehicles placed on sites within Zones A and AE shall either:
 - a. be on the site for fewer than 180 consecutive days
 - b. be fully licensed and ready for highway use; or
 - c. meet all standards of Section 60.3 (b) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes in paragraph (c) (6) of Section 60.3.
 - d. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 1. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage,
 2. The area is not a basement,
Shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

Section 9 Variances and Appeals

- A. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 2. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that: (i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- D. The community shall
1. maintain a record of all variance actions, including their justification for their issuance, and
 2. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

SECTION XXXV ACCESS MANAGEMENT (added March 2007)

I. Authority

These regulations are adopted pursuant to the authority granted in New Hampshire Revised Statutes Annotated (RSA) 674:35, and procedurally under the guidance of 675:6.

II. Purpose

These Access Management Regulations are adopted for the purposes of promoting traffic safety and efficiency, maintaining proper traffic capacity and traffic flow, reducing vehicular collision frequency, minimizing the future expenditure of public revenues, and improving the design and location of access connections to county and township roads while at the same time providing necessary and reasonable ingress and egress to properties along those roads.

The Newton Planning Board finds and determines that these regulations establish the minimum standards necessary to properly manage access to arterial and town roads in the Town of Newton and to carry out the purpose and intent of RSA 674:35.

III. Implementation and Administration

The effective date of these regulations is March, 2007. The Newton Planning Board is responsible for implementing and administering these regulations.

IV. Applicability

- A. These regulations shall apply to all access connections constructed on or after the effective date of these regulations designed or intended for motor vehicle, bicycle, equestrian or pedestrian use to arterial or town roads. They shall also apply to all existing access connections for the purposes described in this Article whenever the land use or the access classifications of such existing access connections change or whenever the existing access is upgraded by reconstruction, relocation, modification, or expansion.
- B. These regulations do not apply to the original approval of extant platted subdivisions governed by the Town of Newton Subdivision Regulations.
- C. Scenic Road: Streets and roads formally designated by the Town of Newton as a Scenic Road are subject to all applicable provisions these regulations in addition to the requirements the Scenic Road statute.

V. Definitions

- A. Access Classification: A classification system that defines driveways according to their purpose and use:

1. Minimum Volume (MV) driveway
 - a) field drive – provides access to agriculture lands and principally used by farm equipment
 - b) utility drive – provides access to public utility facilities
 2. Very Low Volume (VLV) driveway
 - a) farm drive – provides access to farm buildings, including single home
 - b) single family residence drive
 - c) single family common access drive serving four or fewer residences
 - d) multi-family residence drive serving four or fewer residential units
 - e) customary home occupations
 - f) walking, jogging, biking or equestrian trails
 3. Low Volume (LV) driveway
 - a) less than 100 trip ends in the peak hour
 4. Medium Volume (MV) driveway
 - a) 100 or more but less than 200 trip ends in the peak hour
 5. High Volume (HV) driveway
 - a) 200 or more trip ends in the peak hour
- B. Access Connection: Any connection to a road or street which permits access to or from the road or street by vehicles, equipment, cars, trucks, buses, motorcycles, bicycles, pedestrians, or horses or other animals, for the purpose of crossing the road or street or accessing the road or street. An access connection may be a road, street, driveway, or trail.
- C. Driveway: An access connection other than from another public road or street.
- D. Road Classification: A system for roadway hierarchy used to determine the appropriate degree of access management regulation in order to promote public safety and congestion prevention. For the purpose of these regulations, all roads on the State and Town road systems shall be placed in one of the following functional classifications: Principal Arterial, Minor Arterial, Collector, Subcollector, Local (Access) Streets. The classifications of state and town roads within the Town of Newton are identified in the Town of Newton Subdivision Regulations and Site Plan Review Regulations, which is subject to annual review and reclassification by the Planning Board.
- E. Stopping Sight Distance (SSD): The distance required by a driver of a vehicle, traveling at a given speed, to bring the vehicle to a stop after an object on the roadway becomes visible.
- F. Subdivision Regulations: The Town of Newton Subdivision Regulations as enacted and amended by the Newton Planning Board.
- G. Technical Design Standards: The most recent publication of technical design standards as authorized by the Town of Newton Subdivision Regulations and Site Plan Review Regulations.
- H. Definitions by Reference: Definitions of the Newton Zoning Ordinance, the Newton Subdivision Regulations, and the Newton Site Review Regulations are incorporated by reference into these regulations to the extent not inconsistent with the above definitions.

VI. Preliminary Access Approval

- A. In conjunction with any subdivision or site plan approval, the Planning Board shall issue a preliminary access approval. The preliminary access approval will indicate those locations along the lot for which access is acceptable and in conformance with these regulations.
- B. Prior to the issuance of a building permit for any parcel of land which is not subject to a subdivision or site plan approval, the Road Agent shall, upon written request, issue a preliminary access approval. The preliminary access approval will indicate those locations along the lot for which access is acceptable and in conformance with these regulations. The preliminary access approval shall be issued within seven (7) working days following submission of all the information required by these regulations.
- C. For preliminary access approval or for access permit issuance when no preliminary access approval was required, the Road Agent may require any or all of the following information be shown by a registered engineer or surveyor on either a survey plat or other accurate drawing:
 - 1. Distances from the side property lines to the nearest adjacent driveways and their use.
 - 2. Location of any driveways across from the property and their use.
 - 3. Location of any driveways on the property and their use.
 - 4. Available sight distance (SSD) and required sight distance (SSD).
 - 5. Required driveway spacing.
 - 6. Location of proposed driveways, if known.
 - 7. Other information as required by the Road Agent.

VII. Access Permits

- A. Prior to the construction of a driveway, the Road Agent shall issue an access permit. The permit will be for access at a location for which a preliminary access approval was previously granted or at a location that is otherwise in conformance with these regulations. In those situations where no preliminary access approval was issued, the Road Agent may require submission of the Preliminary Access Approval information.
- B. Permits issued may include interim or temporary permits and shall prescribe the permitted uses and any limitations or conditions of the permit as well as the access classification. New permits are required whenever the land use or the access classifications of existing driveways change or whenever existing driveways are upgraded, including widening.
- C. For Minimum Volume and Very Low Volume driveways, access permits shall be issued with the building permit or within seven (7) working days following submission of all information required by these regulations.
- D. For all other driveway classifications, access permits shall be issued within thirty (30) working days following submission of all information required by these regulations.
- E. Any access permit which is not approved and issued or is not disapproved within the above time frames shall be deemed approved and shall be issued in accordance with the information submitted.
- F. An access permit fee as established by the Board of Selectmen to cover the cost of administering these regulations shall accompany the access permit application.
- G. Access permits shall expire if the driveway is not constructed within one (1) year of the date of access permit issuance
- H. Where required, a New Hampshire Department of Transportation (NHDOT) Driveway Permit must be approved in addition to a local access permit. Issuance of an NHDOT Driveway Permit does not supersede the requirements specified herein and does not presuppose entitlement of a local access permit.

VIII. Variations and Appeals

- A. Variances may be granted by the Zoning Board of Adjustment for all classes of driveways. Variances are appropriate if not contrary to the public interest where, owing to special conditions, a literal enforcement of the regulations will result in unnecessary hardship, and such that the spirit of the regulations will be observed and substantial justice done.
- B. In the granting of variances in accordance with the standards on paragraph A, the Board of Appeals may consider the following:
 - 1. Whether not granting the variance would deny all reasonable access.
 - 2. Whether granting the variance would endanger the public safety.
 - 3. Whether the hardship was self-created.
 - 4. Whether granting the variance would hinder traffic safety or the proper operation of the public road.
 - 5. Whether granting the variance would be consistent with the purpose of these regulations.
 - 6. Whether all feasible access options except granting a variance have been considered.
- C. The applicants for variances may provide evidence of unique or special conditions that make the strict application of these regulations impractical or impossible. Such evidence may include:
 - 1. Indirect or restricted access cannot be obtained.
 - 2. No engineering or construction solutions can be applied to mitigate the condition.
 - 3. No alternative access is available.
- D. All applications for appeals or variances shall be file in accordance with the Town of Newton Zoning Ordinance. Appeals shall be filed within thirty (30) days of the Planning Board/Road Agent's decision.

IX. Enforcement

- A. If any driveway is installed contrary to these regulations, the Code Enforcement Officer shall notify the property owner in writing. The notification shall identify the problem with the driveway and establish a 15 day period for the property owner to correct the problem. If the problem is not corrected within 15 days, the town may block the access at the point that it enters a public road right-of-way.
- B. In addition, whoever violates any provision of these regulations shall be fined upon conviction not more than five hundred dollars for each offense. Each day of violation is a separate offense.

X. Standards

- A. The arrangement, character, extent, width, grade, and location of all access connections shall conform with these regulations and shall be considered in their relation to existing and planned roads, streets and driveways, topographical conditions, and public convenience and safety and the proposed uses of the land to be served by such access connections.
 - 1. The requirements of these regulations vary depending on the road classification as defined herein.
 - 2. The provisions of any existing or future Access Management Plan prepared for a specific road or portion of a road shall apply. The applicable requirements of the Subdivision Regulations and the Technical Design Standards shall also apply.
 - 3. General
 - a) All driveways or driveway upgrades shall meet or exceed the requirements of these regulations. The location of all access connections shall permit adequate horizontal and vertical sight distance as specified in the Technical Design Standards based on the stopping sight distance for the legal speed limit at the location of the driveway.

- b) Common access driveways and/or cross access or through access easements may be required and are permitted to satisfy the requirements of these regulations. Proposed common access driveways and/or cross access or through access easements shall be in accordance with the Common Access Drive Regulations in the Technical Design Standards.
- c) Existing driveways that do not conform with these regulations shall be considered nonconforming driveways and shall be brought into conformance with these regulations under the following conditions:
 - (1) When new access permits are requested;
 - (2) When driveway upgrades are proposed;
 - (3) When significant increases in trip generation are planned for the driveway;
 - (4) If the use served by the nonconforming driveway discontinues for a consecutive period of 2 years; or
 - (5) When there is a change of use of the property access.
- d) To the greatest extent possible developments shall incorporate unified access and circulation systems. Where a proposed development abuts to and connects, through internal circulation, to an existing subdivision or development which has access to a Collector or Local Road, the proposed development shall, when necessary, upgrade the intersection at the Collector or Local Road and the existing subdivision's or development's access to the Collector or Local Road.
- e) When a new driveway or driveway upgrade is permitted, the property owner(s) shall eliminate all pre-existing non-conforming driveways upon completion of the new driveway or driveway upgrade as required by the Planning Board. No new driveways or driveway upgrades shall be permitted for parcels or contiguously-owned parcels where access rights have been previously extinguished or acquired by a governmental body.
- f) The Planning Board shall require a Traffic Impact Study for any Medium Volume or High Volume driveway and may require a Traffic Impact Study for any Low Volume driveway. The Traffic Impact Study shall be prepared in accordance with the requirements of the Technical Design Standards and the Planning Board.

4. NUMBER, SPACING AND WIDTH OF ACCESS POINTS

- a) Number of Access Points:
 - (1) Minimum Volume Driveways
 - (a) New driveways or driveway upgrades shall be located no closer than 495 feet from an existing or proposed driveway serving the same parcel or serving contiguously-owned parcels.
 - (2) Very Low Volume Driveways
 - (a) Along Principal Arterials: No new driveways or driveway upgrades shall be permitted along a Principal Arterial from parcels or contiguously-owned parcels where access is available or can be made available from a lower classification road or street or from a common access driveway. No more than one driveway shall be permitted per parcel or per contiguously-owned parcels.
 - (b) Along Minor Arterial Roads: No new driveways or driveway upgrades shall be permitted along a Minor Collector Road from parcels or contiguously-owned parcels where access is available or can be made available from a lower classification road or

street. No more than one driveway shall be permitted per parcel or per contiguously-owned parcels.

(c) Along Collectors and Subcollectors: No more than one driveway or driveway upgrade shall be permitted per parcel or per contiguously owned parcels.

(d) Along Local Streets: No more than one driveway or driveway upgrade shall be permitted per parcel or per contiguously-owned parcels.

(3) Low, Medium and High Volume Driveways

(a) No more than one driveway shall be permitted per parcel or per contiguously-owned parcels.

(b) Driveway Access Spacing:

(1) Driveway access spacing shall be measured from the edge of the proposed driveway pavement to the nearest edge of the roadway of the adjacent or opposite driveway or street.

(2) Minimum Volume Driveways

(a) New driveways or driveway upgrades shall be located no closer than 25 feet from an existing or proposed driveway and no closer than 80 feet from an existing or proposed road or street.

(3) Very Low Volume Driveways

(a) Along Principal Arterials: Where new driveways or driveway upgrades along Principal Arterial are permitted, they shall be located no closer than 495 feet from an existing or proposed driveway or from an existing or proposed road or street.

(b) Along Minor Arterial Roads: Where new driveways or driveway upgrades along a Minor Collector Road are permitted, they shall be located no closer than 360 feet from an existing or proposed driveway or from an existing or proposed road or street.

(c) Along Collectors and Subcollectors: New driveways or driveway upgrades shall be located no closer than 40 feet from an existing or proposed driveway or no closer than 120 feet from an existing or proposed road or street.

(d) Along Local Streets: New driveways or driveway upgrades shall be located no closer than 25 feet from an existing or proposed driveway or no closer than 80 feet from an existing or proposed road or street.

(4) Low, Medium and High Volume Driveways

(a) No more than one driveway shall be permitted per parcel or per contiguously-owned parcels.

(b) If the centerline of an opposite drive is less than fifteen feet (15') from the centerline of the proposed drive, the drives form an intersection and the minimum spacing requirements shall apply for the closest drive.

(c) Opposite-right driveways shall be located no closer than the minimum requirements of Table 1A. Additional opposite right spacing over and above that set forth in Table 1A may be required if the Planning Board determines that there is insufficient left turn queue storage or weave maneuver area between the opposite right driveway and proposed driveway. This

determination shall be made under peak traffic conditions. Desirable spacing will be required except where minimum spacing may be allowed in older developments with insufficient frontage.

| Table 1A. Opposite Right (Downstream) Driveway Spacing | | |
|--|------------------------|--------------------------|
| Roadway Classification | Minimum Spacing (Feet) | Desirable Spacing (Feet) |
| Major Arterial | 300 | 400 |
| Minor Arterial | 225 | 350 |
| Collector & Subcollector | 175 | 300 |
| Local Street | 125 | 250 |

- (d) A minimum of one hundred twenty-five (125') shall be required between opposite-left driveways for all roadway classifications.
- (e) Same-side adjacent driveways shall be located no closer than the minimum requirements of Table 1B. Desirable spacing will be required except where minimum spacing may be allowed in older developments with insufficient frontage.

| Table 1B. Same-side Adjacent Driveway Spacing | | |
|---|------------------------|--------------------------|
| Roadway Classification | Minimum Spacing (Feet) | Desirable Spacing (Feet) |
| Major Arterial | 275 | 350 |
| Minor Arterial | 230 | 300 |
| Collector | 185 | 235 |
| Local Street | 150 | 190 |

(5) Signalized Access Driveway Spacing:

- (a) Along Principal Arterials: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed signalized intersection shall be no closer than 2640 feet from the nearest existing or proposed unsignalized intersection shall be no closer than 1320 feet.
- (b) Along Minor Arterials: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed signalized intersection shall be no closer than 1760 feet or from the nearest existing or proposed unsignalized road or street intersection shall be no closer than 880 feet.
- (c) Along Local Roads: For new driveways or driveway upgrades that will warrant traffic signals, the spacing from the nearest existing or proposed signalized intersection shall be no closer than 1320 feet or from the nearest existing or proposed unsignalized road or street intersection shall be no closer than 660 feet.

(6) Driveway Approach Width

- (a) Commercial/Industrial: The maximum width of a driveway approach for a two-way driveway shall not exceed thirty-six feet (36') including two-foot (2') shoulders. The minimum width of a driveway approach for two-way driveway shall not be less than twenty-four feet (24') including two-foot (2') shoulders.
- (b) Residential: The maximum width of a driveway approach shall not exceed fifteen feet (15'). The minimum width of a driveway approach shall not be less than ten feet (10'). The combined width of two driveways for residential circular drives shall not exceed twenty-eight feet (28').

5. TURNING RADII

- a) Turning Radii. The principal users of the roadway shall be considered when determining the inside turning radii. The inside turning radii shall vary between a minimum of fifteen feet (15') and a maximum of thirty feet (30') and meet the minimum and maximum requirements of Table 2A.

| Land Use | Minimum Inside Turning Radii (feet) | Maximum Inside Turning Radii (feet) |
|----------------------------|-------------------------------------|-------------------------------------|
| Residential Only | 15 | 20 |
| Commercial/Industrial Only | 20 | 30 |
| Mixed Uses | 15 | 30 |

6. CORNER CLEARANCE

- a) No driveway approach may be located closer to the corner than indicated in Table 3A. The measurement shall be taken from the intersection of property lines at the corner to the nearest edge of the proposed driveway pavement. When these requirements cannot be met due to lack of frontage, the nearest edge of the proposed driveway pavement shall be located as far as possible from the intersection of property lines at the corner.

| Speed (mph) | Distance from Corner (feet) |
|-------------|-----------------------------|
| 30 | 325 |
| 35 | 425 |
| 40 | 525 |
| 45 | 630 |
| 50 | 750 |
| 55 | 875 |

7. THROAT LENGTH

- a) Driveway Throat Length. Driveway throat length shall be measured from the edge of the property line to the furthest end of the driveway. A minimum driveway throat length of twenty-five feet (25') for collector streets, forty feet (40') for minor arterials, and fifty-five feet (55') for principal arterials shall be required. The purpose of the driveway throat length is to allow for traffic entering the site to

be stored on site in order to avoid a queue of traffic on the roadway causing delays and a potentially hazardous situation.

8. SHARED ACCESS

- a) Shared Access. Shared driveways are encouraged and may be required between adjacent lots that front on arterial and collector streets. In such cases, a joint access easement between the property owners may be required. The location and dimensions of said easement shall be determined by the Planning Board.
- b) Shared Parking Provision. Parking provision for any combination of uses on the same site shall consider the opportunity for combined visits (i.e. one parking space in front of a gas station pump may count as one parking space for both the convenience store and the gas station in a combined gas station/convenience store development). Shared parking arrangements with adjoining non-residential developments or other uses on site are encouraged. Off-site shared parking shall be protected with a shared parking easement agreement which shall be reviewed and approved by the Planning Board and recorded with the approved site plan.
- c) Parking shall be located within six hundred feet (600') of the principal use and connected to the principal use by a five foot (5') wide pedestrian path.
- d) Parking shall not be permitted in any required setback or between the principal structure and a public street, including corner lots. Parking shall be located to the side or rear of the principal structure. The Planning Board may waive this requirement in situations where lot configuration or use renders such parking lot location impractical, however, effort shall be made to locate parking to the side or rear of buildings.

9. ALIGNMENT OF ACCESS POINTS

- a) Intersection Alignment. If a proposed driveway cannot meet the requirements of Section 1, above, then the proposed driveway shall be aligned directly opposite an existing or proposed opposite driveway and the configuration shall be treated as a four-way intersection.
- b) Angle of Driveway Approach. The angle of driveway approach shall be approximately ninety (90) degrees for two-way driveways and between sixty (60) degrees and ninety (90) degrees for one-way driveways.

10. SIGHT DISTANCE

- a) All season safe sight distance is defined as a line which encounters no visual obstruction between two (2) points, each at a height of three feet nine inches (3'-9") above the pavement, and ten feet (10') back from the road pavement as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.
- b) Safe sight distance shall be compatible with the maximum speed limit posted on the roadway as indicated in Table 6A.

| Table 6A. All-Season Safe Sight Distance | | | | | | |
|---|---------------------------------------|-----|-----|----------|-----|-----|
| Speed Limit (mph) | All Season Safe Sight Distance (feet) | | | | | |
| | Downgrades | | | Upgrades | | |
| | 3% | 6% | 9%+ | 3% | 6% | 9%+ |
| 25 | 158 | 165 | 173 | 147 | 143 | 140 |
| 30 | 205 | 215 | 227 | 200 | 184 | 179 |
| 35 | 257 | 271 | 287 | 237 | 229 | 222 |

| | | | | | | |
|----|-----|-----|-----|-----|-----|-----|
| 40 | 315 | 333 | 354 | 289 | 278 | 269 |
| 45 | 378 | 400 | 427 | 344 | 331 | 320 |
| 50 | 446 | 474 | 507 | 405 | 388 | 375 |
| 55 | 520 | 553 | 593 | 469 | 450 | 433 |

- c) To prevent hardships to owners of small parcels of land or special land uses, exceptions to the all season safe sight distance requirements should be allowed for individual homes, agricultural land, public works land, highway department land and temporary accesses for vehicles such as construction vehicles, gravel trucks and log trucks. The road shall then be properly signed for “Blind Drive” or “Trucks Entering.”

11. BICYCLE AND PEDESTRIAN PROVISION

- a) General Provisions. The site plan shall provide for a system of pedestrian and/or bicycle paths appropriate to the type and scale of development. This system shall connect the major building entrances/exits, parking areas and any existing sidewalks within or adjacent to the project. The pedestrian and/or bicycle network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall also be designed to link the project with residential, recreational, commercial facilities, schools, bus stops and existing bicycle or pedestrian facilities in the neighborhood. When deemed appropriate, connections with amenities such as parks or open space on or adjacent to the site may be required.
- b) Pedestrian Paths. A minimum five foot (5’) wide pedestrian path shall be provided throughout the site, connecting adjacent streets, sidewalks and parking area(s) to the entrances of all principal structures. Pedestrian paths shall be marked by accent strips of brick, concrete block or textured paving materials to define pedestrian walkways and crosswalks. Pedestrian paths may be incorporated with accessible routes as required by the Americans’ with Disabilities Act, as amended. Guidelines for sidewalk construction features are as follows (guidelines may be modified to meet site specific situations with Planning Board approval):
 - (1) Accessibility. Sidewalk corridors shall be easily accessible to all users, whatever their level of ability and comply with all Americans with Disability Act (ADA) standards.
 - (2) Adequate Travel Width. The sidewalk shall be a minimum of five feet (5’) wide.
 - (3) Continuity. The walking route along a sidewalk corridor shall be obvious, shall connect destinations and shall not require pedestrians to travel out of their way unnecessarily.
 - (4) Landscaping. Plantings and street trees in the sidewalk corridor shall create a desirable environment and shall contribute to the psychological and visual comfort of sidewalk users.
 - (5) Social Space. Sidewalk corridors shall provide places for people to interact. There shall be places for standing and sitting.
 - (6) Quality of Place. Sidewalk corridors shall contribute to the character of neighborhoods and business districts and strengthen their identity. Rural pathways/trails or mixed use trails shall be considered as alternatives where appropriate.
- c) Bicycle Facilities. Separate bicycle facilities may be required by the Planning Board if deemed appropriate. Bicycle facilities may be provided in the form of a separate off-street path or onstreet marked bicycle lanes. Bicycle facilities may be combined with pedestrian facilities. Bicycle facilities shall be designed in accordance with AASHTO, *Guide for the Development of Bicycle Facilities*, 1999, as amended.

12. TRANSIT PROVISIONS

- a) **Mass Transit Facilities.** Mass transit facilities shall be incorporated within all major site plans that could generate high volumes of transit use. Transit routes, access points, bus pull-out facilities and shelter locations shall be addressed along major roadways within and on the perimeter of such projects. Transit facilities shall be provided in a manner to make transit an attractive mode of travel for both employees and patrons. Shelters shall be located next to significant clusters of buildings, and shall be provide protection from prevailing winds and inclement weather. A five foot (5') wide pedestrian path shall connect the bus shelter to the principal structure(s) in the development.
- b) **Bus Pull-Out Facilities.** Bus pull-out facilities shall be incorporated into all mass transit projects located along a collector or arterial roadway. A clear separation shall be provided between the pull-out facilities and vehicular traffic and parking lots or parking structures. Pull-out facilities shall not obstruct traffic flow when buses discharge passengers.

13. **ROUNDABOUTS**

- a) **Roundabouts.** Roundabouts as defined in FHWA, *Roundabouts: An Informational Guide*, June 2000, as amended, may be used as an alternative to traditional three or four-way intersections where traffic conditions allow.

XI. **Adoption**

These regulations are adopted by resolution of the Newton Planning Board on after public hearings were held on November 28, 2006 and January 8, 2007.

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