

**TOWN WARRANT – 2007**

**TOWN WARRANT  
2007  
The State of New Hampshire**

**THE POLLS WILL BE OPENING FROM 8:00 A.M. TO 8:00 P.M.**

To the inhabitants of the Town of Newton, N.H. in the County of Rockingham, in said State, qualified to vote in Town Affairs; you are hereby notified to meet for the first session of the annual meeting, which shall be for the explanation, discussion and debate of each warrant article and the transaction of all business other than voting by official ballot to be held at the **Sanborn Regional Middle School on Tuesday, February 6, 2007 at 7:00 PM; the second session to be held at the Memorial Elementary School, in said Newton, on Tuesday, the thirteenth day of March next, at eight o'clock in the forenoon, to choose all necessary Town officers** for the ensuing year by official ballot, **and to vote on all issues before the Town of Newton on the official ballot;** the polls to be open at eight o'clock in the forenoon and to close not earlier than eight o'clock in the evening.

1. To elect all necessary Town Officers for the ensuing year.
2. Are you in favor of the adoption of **Amendment No. 1** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**ACCESSORY APARTMENTS**

Amend Zoning Ordinance DEFINITIONS as follows:

**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.

In addition, Amend Zoning Ordinance SECTION XXVI (11) as follows:

The size of the accessory apartment shall **be a maximum of 800 SF, or 1/3 of the total gross floor area, whichever is smaller.**

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

3. Are you in favor of the adoption of **Amendment No. 2** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**HOME OCCUPATIONS AND HOME BASED BUSINESSES**

Amend Zoning Ordinance SECTION III as follows:

**SECTION III HOME OCCUPATIONS AND HOME-BASED BUSINESSES**

Pursuant to RSA 674:21, the Planning Board is hereby authorized to grant a Conditional Use Permit to allow for Home Occupations in accordance with the restrictions and requirements of this section.

Purpose:

**The purpose of allowing home occupations and home-based businesses is to enhance economic opportunities for residents without significantly detracting from the quality of the neighborhoods.**

The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:

1. Ensure the compatibility of home occupations with the uses permitted in the Residential A and B Zones;
2. Maintain and preserve the character of residential neighborhoods;
3. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial use.

Definitions:

**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.

**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.

**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.**

**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.

Where Permitted

**(A) Home Occupation.** One home occupation may be permitted in each residential unit in Residential A and B zones. No Town approval is required.

**(B) Home-Based Business.** One home-based business may be permitted in each single family residential unit, exclusive of duplexes, condominium units or elderly housing units, in Residential A and B zones, subject to the following:

**(1) The home-based business is accessory to the residential use.**

**(2) There shall be no outdoor activity or use, including storage and parking of commercial vehicles or trailers exceeding 12,000 GVW, except for the provision of employee parking.**

**(3) The home-based business shall not be such that it requires regular or frequent service by heavy commercial trucks since this would adversely impact the character of the neighborhood.**

**(4) The home-based business shall be registered by conditional use permit and through the filing of an official Town of Newton "Home Based Business" form, both of which are subject to review and approval by the Planning Board.**

**(C) General.**

a) Exterior of the building must not create or display any evidence of the home occupation / **Home Based Business**, except a permitted sign **for a Home Based Business**. Variation from the residential character and appearance is prohibited. The maximum size sign allowed shall be two square feet.

b) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials that are improperly used or stored onsite.

c) Not more than two commercial vehicles may be kept overnight at the premises.

d) No off-street parking is allowed. Adequate off-street parking must be provided and used. Provide one parking space per employee.

e) Home occupation/home-based business must be conducted by the resident of the premises.

f) There shall be no outside operations, storage, or display of materials or goods.

g) No process shall be utilized which is hazardous to public health, welfare, or safety.

h) The home occupation/home-based business must not offend by emitting smoke, dust, odor, noise, gas, fumes, lights, or refuse matter.

i) The home occupation/home-based business shall not involve over-night parking of commercial vehicles **or trailers exceeding 12,000 GVW.**

Permitted Uses

No more than one home occupation or home-based business (per property) is permitted. Such use shall be clearly incidental and secondary to the residential use of the dwelling unit.

Application Procedure

**No Town approval is required for Home Occupations.**

Applications for conditional use permits for a Home-**Based Business** shall be made in accordance with the procedures set forth in the relevant sections of the Site Plan Review Regulations of the Newton Planning Board.

Enforcement

This section shall be administered by the Board of Selectmen. Any person who violates the provisions of this section shall be fined \$100 for each offense. Each day that a violation is continued shall constitute a separate offense. An action may be brought about under this provision unless the alleged offender has been given at least seven (7) days notice from the Selectmen by certified mail, return receipt requested, that a violation exists.

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

4. Are you in favor of the adoption of **Amendment No. 3** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**ELDERLY HOUSING**

Amend Zoning Ordinance SECTION XXX as follows:

1 (B) (b) The total number of elderly housing units in the Town of Newton shall not exceed ten percent of the total dwelling units then existing in the Town of Newton. **The number of existing elderly housing units shall not be included in the calculation of this ten percent.**

The maximum allowable number of bedrooms allowed on a site is four bedrooms per acre of upland.

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

5. Are you in favor of the adoption of **Amendment No. 4** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**BUILDING CODE REFERENCES**

Amend the Town of Newton Zoning Ordinance SECTION XVIII as follows:

7. All building heights shall be measured according to **Current State of New Hampshire Building Code**.

**11. Building Safety.**

- a. **The State Building Codes are RSA 155A (International Building Code) and Saf-C 6000 (State Fire Code). These codes are the statewide minimum requirements, which shall serve as the building code for the Town of Newton.**
- b. **The minimum frost protection measured from the bottom of the foundation footing to finished grade shall be four (4) feet.**
- c. **Appendix G of the 2000 International Residential Code shall be the minimum requirements for all pool, spa, hot tub, and barrier fencing for those installations.**
- d. **Appendix F of the 2000 International Residential Code shall be the minimum requirements for the provisions of radon systems.**
- e. **All construction, demolition, or work covered by the scope and purpose of these codes that is performed without permits shall be subject to \$100 stop work order plus the permit fee. If the work is completed, then the \$100 shall be a non-compliance penalty, plus the fee.**
- f. **Continued use of properties or structures that are not in compliance with the zoning ordinance and are not considered to be “grandfathered”, are subject to fines of \$30 per day per violation.**

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

6. Are you in favor of the adoption of **Amendment No. 5** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**CONDOMINIUM CONVERSIONS**

Proposed New Zoning Ordinance SECTION XXXIII as follows:

- 1. Purpose  
The purpose of this article is to provide regulations for the conversion of any existing structure to condominium ownership in any zoning district in the Town of Newton. Such conversion shall require Planning Board approval of a special use permit in accordance with RSA 356B:5 following a public hearing noticed per RSA 675:5. Approval shall be granted only if all the following conditions are met:

- A. A complete set of site plans and floor plans, as well as a complete set of all condominium documents must be filed with the Planning Board. The plan shall show the location of all utilities on the site, and shall indicate the location of all water connections and the shutoff valve for each unit. The Planning Board shall establish a schedule of fees for its review and may promulgate regulations related to carrying out its authority under this ordinance.
- B. The septic system standards of the NH Water Supply and Pollution Control Division existing as of the date of the request for condominium conversion must be met or exceeded by all systems used by the units associated with the condominium conversion, and a certificate to that effect must be filed with the Planning Board based on review of Town records by the Building Inspector and onsite inspection of systems by a professional engineer, and, a soil scientist if the existing system is undersized under current WSPCD standards.
- C. Drinking water supplies from groundwater shall be protected by restricting land use and prohibiting all activity, including but not limited to the maintenance of any sewer, sewage or waste disposal system, detrimental to water quality and quantity, within the protective radii based upon the average daily demand on the system as follows:

<u>System Demand</u> <u>(gallons per day)</u>	<u>Protective Radius</u> <u>(in ft from source of supply)</u>
400	85
800	125
1200	150
1600	175
2000	200

- D. The responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established as that of the Declarant or Association of unit owners or, in default of such obligation by the Declarant or Association, then by the individual owners subject to reimbursement from the Association or the Declarant as the case may be, and a statement to this effect shall appear in the condominium Declaration. The deed to each condominium unit shall be subject to the declaration containing these restrictions. In the case of an Association of land owners, a copy of the Articles of Association shall be submitted to the Board.
- E. The Declaration and the Articles of Association shall specify that in no event shall the Town have any obligation for maintenance, operation, replacement or protection of the water supply and sewage disposal systems. If for any reason the Town is required to undertake any such

obligation, it shall be held harmless and fully and completely indemnified for all cost and expense, including reasonable attorney's fees incurred. The obligations to hold harmless and indemnify shall be joint and several on the part of each unit owner not the Association. The Town shall be entitled to a lien for its protection which shall attach and may be enforced in the manner of the lien for condominium assessments described in RSA 356-B or its successors.

- F. The off-street parking requirements of the Town of Newton existing as of the date of the request for condominium conversion must be met.
- G. The proposed conversion to condominium ownership shall not adversely affect surrounding properties.
- H. The proposed conversion to condominium ownership must be found to be in the public interest.
- I. The individual commercial or residential units which are the subject of an application for a special permit for condominium must, at the time of the application for condominium conversion, exist as legal units pursuant to the land use and building ordinances of the Town of Newton. The burden shall be on the petitioner to demonstrate that the units sought to be converted conformed to said ordinance now or in the case of a valid nonconforming use at the time of their construction.

Checklist for Condominium Conversion

1. Complete set of site plans and floor plans, as well as a complete set of all condominium documents.
2. Certificate showing that the septic system standards of the NH Water Supply and Pollution Control Division have been met or exceeded by all systems used by the units associated with the condominium conversion.
3. Drinking water supplies from groundwater protected by restricting land use and prohibiting all activity, including but not limited to the maintenance of any sewer, sewage or waste disposal system, detrimental to water quality and quantity, within the protective radii based upon the average daily demand on the system.
4. Responsibility for maintenance, operation, replacement and protection of the water supply and sewage disposal systems shall be clearly established.
5. Off-street parking requirements met.
6. Proposed conversion to condominium ownership shall not adversely affect surrounding properties.

7. Proposed conversion to condominium ownership must be found to be in the public interest.
8. The individual commercial or residential units must, at the time of the application for condominium conversion, exist as legal units.

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

7. Are you in favor of the adoption of **Amendment No. 6** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

Proposed New Zoning Ordinance SECTION XXXIV as follows:

**Floodplain Development Ordinance**

**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.**

- A. **“Area of Special Flood Hazard” is the land in the floodplain within the Town of Newton, NH subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the FHBM and is designated on the FIRM as Zone A.**
- B. **“Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.**
- C. **“Basement” means any area of a building having its floor sub grade on all sides.**
- D. **“Building” - see “structure”.**

- E. **“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, excavating, or drilling operation.
- F. **“FEMA”** means the Federal Emergency Management Agency.
- G. **“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.
- H. **“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.
- I. **“Floodplain” or “Flood-prone area”** means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).
- J. **“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.
- K. **“Floodway”**- see “Regulatory Floodway”.
- L. **“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.
- M. **“Highest adjacent grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- N. **“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.
  
- O. **“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.
  
- P. **“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 connected 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 days.
  
- Q. **“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.
  
- R. **“100-year flood”** - see “base flood”
  
- S. **“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 tow able 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.

- T. **“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.
- U. **“Special flood hazard area”** means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on a FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, VO, v1-30, VE, V, M, or E. (See-“Area of Special Flood Hazard”)
- V. **“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.
- W. **“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.
- X. **“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.
- Y. **“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 terms 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”.

- Z. “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.”

**Section 8**      **Special Flood Hazard Areas:**

1. In unnumbered A zones 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 Zone A 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 A1-30, AH 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.**

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

**8.** Are you in favor of the adoption of **Amendment No. 7** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

**COMMERCIAL ARCHITECTURE**

**I. STATUTORY AUTHORIZATION**

- A. RSA Title LXIV, Chapters 674:16, Grant of Power
- B. 674:21, Innovative Land Use Controls

**II. PURPOSES AND APPLICABILITY**

- A. General Purposes
  - 1. To preserve and enhance the rural, small town character of Newton through architectural design that replicates in scale and character the best examples of

traditional neighborhood design from the historic towns and villages of New England and to create and clearly delineate public and private spaces to enhance the quality of life and aesthetic quality of both the residents of the development and the town as a whole;

2. To promote traditional village building and site development patterns with an interconnected pattern of streets, alleys, and lanes, which provides for safe and efficient vehicular travel at a scale consistent with the small, rural village setting, and which provides for the connection of those streets to existing and future developments;

3. To protect environmental resources and to preserve scenic vistas, agricultural areas, and unique natural features of the landscape;

4. To provide for pedestrian and bicycle travel throughout the development through the creation of sidewalks, paths, and bicycle paths;

5. To promote the use of neighborhood greens, pocket parks, landscaped streets, and access to green space to provide space for recreation and social activity, and to provide visual enjoyment;

6. To provide a mix of housing styles, types, and sizes, to accommodate households of all ages, sizes, and incomes;

7. To provide buildings for civic assembly and neighborhood activities that promote the development of social networks and community and provide a visual focal point for the village subdivision; and

8. To promote the management of growth and the implementation of innovative land use controls consistent with RSA 674 in order to protect environmental resources, control sprawl, reduce traffic congestion, and enhance the sense of community of new developments and redeveloped areas.

#### B. Applicability.

1. The standards in this section are applicable within the Commercial District(s), whose location and boundaries have been selected to be consistent with policies in the Master Plan.

2. The standards in this section are also applicable to any proposed change of use or expansion of use for commercial properties outside of the Commercial District(s).

### III. COMMERCIAL DESIGN STANDARDS

#### A. Architectural Design Standards

1. General. The following architectural design standards shall apply to all structures.
2. Buildings.
  - a) Scale and Style. Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context, except however, where existing development does not represent a consistent architectural style or does not incorporate a building design that reflects the rural character and architecture of New England towns,



**Figure 1. Scale and Style**

buildings should instead be designed to improve the overall streetscape, relying on the design standards set forth in this ordinance.

- b) As a general rule, buildings shall reflect a continuity of treatment obtained by maintaining the building scale or by subtly graduation changes, by maintaining small front setbacks, by continuous use of front porches on residential buildings, by maintaining cornice lines in buildings of the same height, by extending horizontal lines of fenestration, and by echoing architectural styles, details, design themes, building materials, and colors used in surrounding buildings where such buildings represent the rural character and architecture of New England towns.



**Figure 2. Corner Lots**

c) Corner Lots. Buildings on corner lots shall be considered significant structures, given that they have at least two front facades visibly exposed to the street. If deemed appropriate by the planning board in its design review, such buildings may be designed with additional height and architectural embellishments, such as corner towers, steeples, or other features to emphasize their location and serve as a visual focal point for the area.

d) Walls and Planes. Buildings shall avoid long, monotonous uninterrupted walls or roof planes. Offsets including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roof-line offsets shall be provided, in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof. Flat roofs should be avoided in favor of pitched roofs.

e) Buildings with more than one façade facing a public street or internal open space shall be required to provide multiple front façade treatments.

f) The architectural treatment of the front façade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details. Bland wall or service area treatment of side and or rear elevations visible from the public viewshed is discouraged.

g) Base Course and Cornice. All visibly exposed sides of a building shall have an articulated base course and cornice. The base course shall align with either the kickplate or sill level of



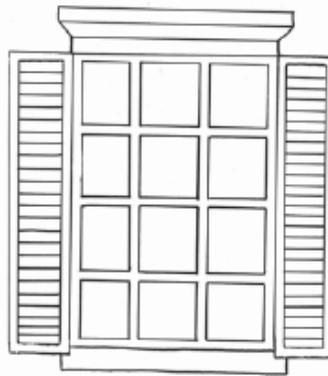
**Figure 4. Cornice and Base**

the first story. The cornice shall terminate or cap the top of a building wall, may project horizontally from the vertical building wall plane, and may be ornamented with moldings, brackets, and other details. The middle section of a building may be horizontally divided at the floor, lintel, or sill levels with belt or string course.



**Figure 5. Roofs**

h) Roofs. Gable roofs with a minimum pitch of 9/12 should be used to the greatest extent possible. Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs should provide overhanging eaves on all sides that extend a minimum of one root beyond the building wall. Flat roofs should be avoided on one-story buildings, but may be used on buildings with a minimum of two stories, provided that all visibly exposed walls shall have an articulated cornice which projects horizontally from the vertical building wall plane. Other roof types should be appropriate to the building's architecture. Mansard roofs are generally discouraged, particularly on buildings less than three stories in height. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.



**Figure 6. Windows**

i) Windows/fenestration. Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building, and appropriate to a rural New England setting. Windows shall be vertically proportioned wherever possible. To the extent possible, upper story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. Blank, windowless walls are discouraged. Store-fronts are an integral part of building and shall be integrally designed with

the upper floors to be compatible with the overall façade character. Ground floor retail, service, and restaurant uses should have large pane display windows, framed by the surrounding wall, and shall not exceed 75 percent of the total ground level façade area.

j) Entrances. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, and others, where appropriate. Any such element utilized shall be consistent with the style, materials, colors, and details of the building as a whole, as shall the doors. Awnings are permitted where they compliment the building's architectural style.

k) Light fixtures. Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building and shall comply with local building codes. The type of light source used on the exterior of buildings, signs, parking areas, pedestrian walkways, and other areas of a site, and the light quality produced, shall be the same or compatible. Facades shall be lit from the exterior, and, as a general rule, lights should be concealed through shielding or recessed behind architectural features. The use of low-pressure sodium, fluorescent, or mercury vapor lighting either attached to buildings or to light the exterior of buildings shall be prohibited. Mounting brackets and associated hardware should be inconspicuous.

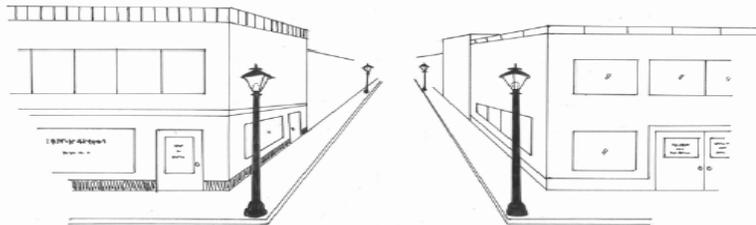


Figure 7. Street lights

l) Lighting. Street lights shall be decorative and shall blend with the architectural style of the community. Along all commercial or mixed-use streets, parking areas, sidewalks, walkways, courtyards, community greens, and interior open spaces, decorative light posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main street. Light posts should be at least ten feet high. In parking areas, post heights may extend to a maximum of sixteen feet. Wall-mounted light design shall be incorporated into the street lighting design.

m) Air conditioners and other fixtures. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing, dumpsters, propane/fuel tanks, transformers, satellite dishes, and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, or landscaping. In no case will chain-link fencing be permitted for screening.

n) Fire escapes. Fire escapes shall not be permitted on a building's front façade. In buildings requiring a second means of egress pursuant to the local building codes, internal stairs or other routes of egress shall be used.

o) Security. Solid metal security gates or solid roll-down metal windows shall not be permitted. Link or grill type security devices shall be permitted only if installed from the inside, within the window or door frames. Security grilles shall be recessed and concealed during normal business hours.

## B. Signs

1. General. All signs within a new development must conform to the following requirements. All signs within a development must be consistent with the overall design of the development, and should be constructed of wood, granite, painted cast metal, bronze, brass, or other material consistent with the materials used in the building's façade or fixtures. Plastic panel rear-lighted signs are not permitted. Billboards are not permitted. Signs employing mercury vapor, low pressure and high-pressure sodium, and metal halide lighting are not permitted.
2. Design. Unique and interesting designs are encouraged in the lettering and graphics of each sign. Signs may be attached to the building and project outward from the wall so long as the sign does not project outward from the wall to which it is attached more than eighteen inches. Projecting signs must be no larger than four square feet. Projecting signs must be at least ten feet above the ground. Signs attached to the front façade shall not exceed the dimensions of the façade.
3. Height. The maximum permitted height of signs is fifteen feet above the front sidewalk elevation, and shall not extend above the base of the second floor windowsill, parapet, eave, or building façade.
4. Freestanding signs shall only be permitted where the business is not attached to any other buildings. All freestanding signs must be no larger than four feet in height and no greater than six feet in width. Freestanding signs constructed of natural materials such as granite or wood are encouraged.
5. Signs that list more than one business shall not be permitted except in instances where a building contains multiple businesses or offices that are not distinguishable from the street.
6. Street address numbers shall be clearly marked in any new development and included in the design of the front façade or signage of individual buildings.
7. Company logos that contain bright or garish colors or designs shall be muted to harmonize with the overall color scheme and design of the development.

### C. Landscaping

1. All developments must contain a landscaping plan that lists the location, species, and suitability of plant species to the site.
2. Existing trees and other features of the land shall be protected in the development of the site to the greatest extent feasible.
3. Where merited, trees shall be planted to enhance public spaces, open spaces, and streetscapes. The Planning Board will meet with the developer's landscape architect to review the landscape plan and suggest any appropriate landscaping improvements to the site to enhance the development consistent with the landscape requirements mentioned elsewhere in this ordinance.

### D. Parking

1. All parking for commercial areas must be on-street or in the rear of buildings.
2. Rear parking areas shall be landscaped with a line of low shrubs or suitable foliage every two rows of spaces.

### **THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

**9.** Are you in favor of the adoption of **Amendment No. 8** as proposed by the Planning Board for the Town of Newton Zoning Ordinance as follows?

Proposed New Zoning Ordinance SECTION XXXV as follows:

#### ACCESS MANAGEMENT ORDINANCE

##### 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 \_\_\_\_\_. 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, Sub-collector, 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. Variances 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

c) 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.

d) Driveway Approach Width

- (1) 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.
- (2) 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

Table 2A. Inside Turning Radii		
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

feet (15') and a maximum of thirty feet (30') and meet the minimum and maximum requirements of Table 2A.

#### 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.

<b>Speed (mph)</b>	<b>Distance from Corner (feet)</b>
30	325
35	<b>425</b>
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 on-street 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 \_\_\_\_\_ and \_\_\_\_\_.

**THE PLANNING BOARD DOES RECOMMEND THIS ARTICLE**

10. To see if the Town will vote to raise and appropriate the sum of Two Million Nine Hundred Sixty Seven Thousand Five Hundred Dollars (**\$2,967,500**) for the design, construction, equipping and furnishing of a **PUBLIC SAFETY COMPLEX and for the purchase of land upon which it will be erected**, said parcels of land are located on Merrimac Road and identified as Lot 12-6-10 and Lot 12-6-11 with portions of said parcels combining to include 7.92 (+/-) acres, said land to be subdivided for the sole use and purpose of building a public safety complex, and to further authorize the issuance of not more than Two Million Nine Hundred Sixty Seven Thousand Five Hundred Dollars (\$2,967,500) in the form of bonds and/or notes under and in compliance with the provisions of the Municipal Finance Act, NH RSA Chapter 33 as amended, and to invest the proceeds of the bonds and to raise and appropriate up to the sum of One Hundred Thousand Dollars (\$100,000.00) of investment earnings for said project; to authorize the Selectmen to apply for, obtain and accept federal, state or other aid, if any, which may be available for said project and to comply with all laws applicable to said project; and to authorize the Selectmen to issue, negotiate, sell and deliver said bonds and/or notes, and to determine the rate of interest thereon and the maturity, (not to exceed 5% interest) and other terms thereof. (3/5 ballot vote required)

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

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11. “Shall the Town of Newton raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling **\$2,704,395.00**?

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

Should this article above be defeated, the default budget shall be \$2,550,826.00, which is the same as last year, with certain adjustments required by previous action of the Town of Newton or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.”

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12. Shall the Town discontinue mass mailing the Town Reports each year, thereby reducing the cost of printing and the cost of mailing? (The Town will continue to make the Town Reports available on the Town Website at [www.newton-nh.gov](http://www.newton-nh.gov), by mail upon request, at the Gale Library and at the Newton Town Hall.)

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

13. To see if the Town will vote to raise and appropriate, as proposed by the Trustee of Trust Funds, the sum of **\$250** to increase the salary line from \$500 per year to \$750 per year.

14. To see if the Town will vote to raise and appropriate, as proposed by the Board of Selectmen, the sum of **\$25,000** for the preparation of a **SITE PLAN and the CONSTRUCTION of a PUMP HOUSE** on the Town Hall property, needed to house the Fire Sprinkler System equipment. This will be a non-lapsing appropriation per RSA 32:7, VI and will not lapse until the site plan and construction is completed or by December 31, 2009, whichever is sooner.

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

15. To see if the Town will vote to raise and appropriate, as proposed by the Board of Selectmen and the Fire Chief, the sum of **\$50,000** to be placed in the existing Capital Reserve Fund called the **“FIRE APPARATUS AND EQUIPMENT FUND”** created in 2005.

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

16. To see if the Town will vote to raise and appropriate, as proposed by the Gale Library Board of Trustees, the sum of **\$10,000** to be placed in the existing Capital Reserve Fund called the **“GALE LIBRARY BUILDING FUND”** created in 1982.

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

17. To see if the Town will vote to raise and appropriate, as proposed by the Board of Selectmen, the sum of **\$25,000** to be placed in the existing Capital Reserve Fund known as the **“TOWN BUILDINGS FUND”** created in 2006.

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

18. To see if the Town will vote to raise and appropriate, as proposed by the Board of Selectmen and the Road Agent, the sum of **\$25,000** to be placed in the existing Capital Reserve Fund called **ROAD SYSTEMS IMPROVEMENT FUND** created in 2001 for the purpose of maintenance, repairs and construction.

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

19. To see if the Town will vote to establish a **Revolving Fund** pursuant to RSA 31:95-h, **for the purpose of POLICE SPECIAL DETAILS**. All revenues received for police special details will be deposited into the fund, and the money in the fund shall be allowed to accumulate from year to year, and shall not be considered part of the town’s general fund unreserved fund balance. The Town Treasurer shall have custody of all moneys in the fund, and shall pay out the same only upon order of the governing body and no further approval is required by the legislative body to expend. Such funds may be expended only for the purpose for which the fund was created.  
*[Intent: This proposed article will result in no increase in the amount to be raised by taxes.]*

20. To see if the Town will vote, as proposed by the Board of Selectmen, to raise and appropriate the sum of **\$10,000.00** to begin to **develop a set of digital parcel maps** that will assist in a more accurate property assessment process and will be compatible with the Town's Assessing software.

21. To see if the Town will vote to raise and appropriate the sum of **\$38,337.00** for the following **Community Services**:

<b>A SAFE PLACE</b>	<b>\$ 1,250.00</b>
<b>AREA HOMECARE &amp; FAMILY SERVICES</b>	<b>3,800.00</b>
<b>CHILD ADVOCACY CENTER</b>	<b>2,000.00</b>
<b>DRUGS ARE DANGEROUS</b>	<b>2,000.00</b>
<b>FAMILY MEDIATION</b>	<b>5,947.00</b>
<b>LAMPREY HEALTH CARE</b>	<b>1,000.00</b>
<b>NHSPCA</b>	<b>550.00</b>
<b>ROCKINGHAM COUNTY COMMUNITY ACTION</b>	<b>6,412.00</b>
<b>RVNA-HOSPICE</b>	<b>5,678.00</b>
<b>THE SAD CAFÉ</b>	<b>5,000.00</b>
<b>SEACARE HEALTH SERVICES</b>	<b>2,000.00</b>
<b>VIC GEARY CENTER</b>	<b><u>2,700.00</u></b>
	<b>\$ 38,337.00</b>

22. To see if the Town will vote, as proposed by the Board of Selectmen, to raise and appropriate the sum of **\$40,000** to be paid toward the **2007 SOLID WASTE DISPOSAL BUDGET** and to authorize the withdrawal of \$40,000 from the **Transfer Station/Recycling Fund** created in 2003 for this purpose.

*[Intent: This proposed article will result in no increase in the amount to be raised by taxes.]*

**THE BOARD OF SELECTMEN DOES RECOMMEND THIS ARTICLE**

23. Shall the Town establish a **Heritage Commission** in accordance with RSA 673:1 and RSA 674:44?

**674:44-a Heritage Commission.** – A heritage commission may be established in accordance with RSA 673 for the proper recognition, use, and protection of resources, tangible or intangible, primarily man-made, that are valued for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural contexts.

674:44-b Powers. –

I. GENERALLY. Heritage commissions shall have advisory and review authority, specifically, as follows:

- (a) Survey and inventory all cultural resources.
- (b) Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of historic district ordinances within the municipality prior to its adoption or amendment as provided in RSA 675:6.
- (c) Assist the planning board, as requested, in the development and review of those sections of the master plan which address cultural and historic resources.
- (d) Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources.
- (e) Coordinate activities with appropriate service organizations and nonprofit groups.
- (f) Publicize its activities.
- (g) Hire consultants and contractors as needed.
- (h) Receive gifts of money and property, both real and personal, in the name of the city or town, subject to the approval of the city council in a city or the board of selectmen in a town, such gifts to be managed and controlled by the commission for its proper purposes.
- (i) Hold meetings and hearings necessary to carry out its duties.

II. PROPERTY. The commission may acquire, in the name of the town or city, subject to the approval of the local governing body, by gift, purchase, grant, bequest, devise, lease, or otherwise, a fee or lesser interest, development rights, covenant, or other contractual right, including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the cultural resources of the city or town, and shall manage and control the same; provided, however, that the city, town, or commission shall not have the right to condemn property for these purposes.

III. HISTORIC DISTRICT COMMISSION. Heritage commissions also may assume, if authorized by the local legislative body, the composition and duties of historic district commissions.

674:44-c Separate Commissions. – A municipality may choose to maintain a separate and distinct heritage commission and historic district commission. In such cases, the heritage commission shall serve in an advisory capacity to the historic district commission as well as to the planning board and other local boards and residents.

674:44-d Appropriations Authorized. –

I. A town or city, having established a heritage commission under this subdivision, may appropriate money as deemed necessary to carry out its purposes. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 674:44-b shall be placed in a heritage fund and allowed to accumulate from year to year. Money may be expended from such fund by the heritage commission for its purposes without further approval of the local legislative body.

II. The town treasurer, pursuant to RSA 41:29 shall have custody of all moneys in the heritage fund and shall pay out the same only upon order of the heritage commission. The disbursement of heritage funds shall be authorized by a majority of the heritage commission. Prior to the use of such funds for the purchase of any interest in real property, the heritage commission shall hold a public hearing with notice in accordance with RSA 675:7.

**24.** Shall the Town authorize the Board of Selectmen to appoint five citizens as members of the Heritage Commission pursuant to RSA 673:4-a and RSA 673:5 and to appoint up to five alternate members, provided that Article 23 passes.

Given under our hands and seal this 16<sup>th</sup> day of January in the year of our Lord Two Thousand and Seven.

Gary F. Nelson, Chairman

John P. Ulcickas  
BOARD OF SELECTMEN

Robert S. Donovan, Jr.