

**Town of Newington  
State of New Hampshire**

**TOWN WARRANT**

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To the Inhabitants of the Town of Newington in the County of Rockingham and said State Qualified to vote in Town Affairs:

You are hereby notified to meet at the Newington Town Hall on Tuesday, March 9, 2004 to act on Articles 1, 2 and 3. The Polls will open at 11:00 a.m. and close at 7:00 p.m.

The Business portion of the Meeting to act on Articles 4 through 25 through will resume on Saturday, March 13, 2004 at 1:30 p.m.

**ARTICLE 1.** To choose in the manner provided by law; one (1) **Selectman** for 3 years; one (1) **Moderator** for 2 years; one (1) **Treasurer** for 1 year; one (1) **Board of Fire Engineers** member for 3 years; one (1) **Board of Fire Engineers** member for 2 years; one (1) **Police Commissioner** for 3 years; one (1) **Library Trustee** for 3 years; one (1) **Cemetery Committee** member for 3 years; one (1) **Sewer Commissioner** for 3 years; three (3) **Budget Committee** members for three years; one (1) Budget Committee member for 2 years; two (2) **Planning Board** members for 3 years; one (1) **Planning Board** member for 2 years.

**ARTICLE 2.** To see if the Town will vote to amend the Newington Zoning Ordinance, as proposed by the Planning Board, by adding the following article and re-numbering the subsequent article accordingly:

**AMENDMENT # 1:** Revise Article V Section 2 (Office Zone) as indicated below (*underlined text indicates proposed language; text that is crossed out indicates a proposed deletion*):

**B - Principal Uses Permitted:**

(1) offices, research & development facilities, biotech facilities, light manufacturing, warehouses, hospitals, medical clinics, nursing homes, veterinary hospitals, schools, and facilities to treat the developmentally disabled.

~~and land uses which customarily support the preceding, such as hotels, motels, conference facilities, daycare, restaurants other than those with drive up windows, and~~

(2) light manufacturing, providing that it does not cause excessive noise, vibrations, smoke, gas, fumes, odor, dust fire hazard, pollution, or conditions detrimental to the health, safety, or welfare of the community.

**C - Accessory Uses Permitted:**

1) Daycare facilities, hotels of 3 stories or higher, and conference centers;

2) Non-public dining facilities that occupy no more than 10% of the floor area of the building in which they are situated.

**D - Uses Prohibited:**

Restaurants other than those cited in paragraph C above, motels, and all other uses not expressly permitted by this ordinance.

**Yes: 132    No: 78**

**AMENDMENT # 2:** In Article II, revise the definition of “retail” by replacing the word “sale” with “sale, rent, or lease.”

**Yes: 133    No: 72**

**AMENDMENT # 3:** In Article V Section 3B (permitted uses in the Commercial Zone), add “vehicle dealers (sale, rental, or leasing)” to the list of permitted uses.

**Yes: 137    No: 70**

**AMENDMENT # 4:** Replace Article X “Wetlands Conservation District” with a new Article X, as follows:

**Wetlands Conservation District**

**Section 1 - Purpose and Intent**

The purpose of this article is to protect the public health, safety and general welfare; as well as, the wetland’s ecological integrity and function by controlling and guiding the use of land areas which have been found to be wetlands. It is intended that this article shall:

- A. Prevent development of structures and land uses on wetlands which will contribute to pollution of surface and groundwater by sewage or toxic substances or sedimentation;
- B. Prevent destruction of, or significant changes to natural wetlands which provide flood protection, provide filtration of water flowing into ponds and

- streams, augment stream flow during dry periods, or are connected to the ground or surface water supply;
- C. Protect wildlife habitats, maintain ecological balances and enhance ecological values such as those cited in RSA 483-A:1-b;
  - D. Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;
  - E. Prevent unnecessary or excessive expense to the Town in providing or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands;
  - F. Prevent damage to structures and properties caused by inappropriate development of wetlands.

## **Section 2 - Wetlands Defined**

**“Wetland”** is an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to swamps, streams, ponds, vernal pools, marshes, bogs, tidal wetlands and similar areas. Man-made detention basins and treatment swales are not to be construed as wetlands.

**“Tidal Wetlands”** are defined as wetlands whose vegetation, hydrology or soils are influenced by periodic inundation of tidal waters.

**“Vernal Pools”** are defined as a temporary body of water providing essential breeding habitat for certain amphibians and invertebrates and that do not support fish. For reference, see *Identification and Documentation of Vernal Pools in New Hampshire, 1997*.

**Delineation Requirements:** The precise location of a wetland boundary in any particular case must be determined by on-site inspection of soils, vegetation, and hydrology by a New Hampshire Certified wetland scientist using the *Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1*, (January 1987) and *Field Indicators for Identifying Hydric Soils in New England* (Version 2, July 1998) published by the New England Interstate Water Pollution Control Commission.

## **Section 3 - District Boundaries**

The requirements of this article are applicable to the entire Town of Newington and include all jurisdictional wetlands as defined in Section 2 above; as well as, all prime wetlands shown on the most recent edition of the Town of Newington’s Prime Wetland Map.

## **Section 4 - Permitted & Prohibited Land Uses in Wetlands**

**A – Prohibited uses** include any use that alters the surface configuration of the land by the addition of fill or by dredging, except if expressly permitted in Section B below.

**B – Permitted uses** are as follows:

1. Agriculture, including grazing, crop production and the construction of fences, using *Best Management Wetlands Practices for Agriculture* (July 1993 - Amended September 1998) provided that such use does not cause significant increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such use will not cause or contribute to soil erosion.
2. Forestry and tree farming using *Best Management Practices Erosion Control on Timber Harvesting Operations in New Hampshire* (April 1996). This permitted use includes the construction of an access road for said purpose.
3. Wildlife habitat enhancement and management.
4. Passive recreational uses consistent with the purpose and intent of this article as defined in Section one above.
5. Conservation areas and nature trails using *Best Management Practices for Erosion Control During Trail Maintenance and Construction* (1994 updated 1996).
6. Driveways for access to residential buildable upland lots, with proper drainage and erosion control measures.
7. Residential uses by Special Exception as provided for in Section 4C below.
8. The construction of footbridges, catwalks and wharves, provided that:
  - a) said structures are constructed on posts or pilings so as to permit unobstructed flow of water;
  - b) the natural contour of the wetland is preserved; and
  - c) the Planning Board has approved the proposed construction of the footbridges, catwalks & wharves.

**C - Special Exceptions:** The construction of roads, access ways, water impoundment & water supply systems, pipelines, power lines and other transmission lines in wetlands areas shall require a Special Exception from the Board of Adjustment (BOA). The Special Exception shall be granted by the BOA, after considering the Conservation Commission's recommendations, and only upon finding all of the following:

1. The proposed construction is essential to the productive use of non-wetland areas.

2. Design, construction and maintenance methods will minimize any detrimental impact upon the wetlands, and will include restoration of the site as nearly as possible to its original grade and condition.
3. No alternative route is feasible and reasonable.
4. Issuance of permits (if applicable) from the New Hampshire Wetlands Bureau and the Army Corps of Engineers. A copy of these permits shall be submitted to the Town in advance.
5. All Special Exception criteria specified in Article IV Section 9 of this ordinance, and
6. The provision of mitigation measures, in Newington, close to the affected wetland system, where appropriate.

**Section 5 – Minimum Lot Size Requirements**

Areas designated as jurisdictional wetlands may be used to fulfill no more than 50% of the minimum lot size required by the Zoning Ordinance, provided that the upland area is at least 30,000 contiguous square feet.

**Section 6 – Wetland Buffer Provisions**

The following vegetative buffers shall be observed in order to protect the integrity and functionality of the wetlands resources referenced below (Reference *Buffers for Wetland & Surface Waters: A Guidebook for New Hampshire Municipalities*, revised May 1997).

<b>Resource</b>	<b>Size of Resource</b>	<b>Type of Buffer</b>	<b>Size of Buffer</b>
All Wetlands	Greater than 5,000 square feet	No-Cut and No-Disturbance	25 Feet
Vernal Pools	All sizes	No-Cut and No-Disturbance	25 Feet
Tidal & Prime Wetlands	All sizes	Limited-Cut*	75 Feet

\*“Limited-Cut” buffer cited above means a healthy, well-distributed stand of trees, saplings, shrubs and ground cover that must be maintained and which leaves an intact vegetated buffer. Tree-cutting shall be limited to 50% of the basal area of trees, and 50% of the total number of saplings over a 20-year period. Reference - New Hampshire’s Comprehensive Shore land Protection Act (RSA 483-B).

**Section 7 – Structural Setbacks**

The following setbacks to wetlands shall be observed by all structures in order to protect the integrity and functionality of the wetlands resources referenced below.

<b>Resource</b>	<b>Size of Resource</b>	<b>Relationship to Surface Waters</b>	<b>Minimum Setback</b>
All Wetlands	All Sizes	Contiguous with Surface Waters	100 Feet**
All Wetlands except Prime Wetlands &	Greater than 5,000 square feet	Not Contiguous with Surface Waters	50 Feet

Vernal Pools			
All Wetlands except Prime Wetlands & Vernal Pools	5,000 square feet or less	-	0 Feet
Vernal Pools	All sizes	-	50 Feet

\*\*Parking lots are exempt from this 100-foot requirement from all wetlands except Prime Wetlands. Parking lots shall observe a 25 foot setback from the (non-Prime) Wetlands that are greater than 5,000 sf.

**Section 8 – Exemptions**

Undeveloped building lots of 3 acres or less that were created prior to 2003 shall be exempt from the pond & stream buffer and pond & stream setback requirements in this article.

**Section 9 – Violations**

Any wetland (including prime wetlands and vernal pools) or its buffer altered in violation of this ordinance shall be restored at the expense of the violator(s) as provided by RSA 483-A:5 and under the direction of a New Hampshire certified wetland scientist and said restoration shall be subject to review by the Newington Conservation Commission. When appropriate, injunctive relief shall be sought by the Town as per RSA 676:15 and civil fines imposed as per RSA 676:17.

**Yes: 104    No: 99**

**ARTICLE 3.** To see if the Town will vote to amend the Newington Building Code, as proposed by the Planning Board, by replacing Sections 2, 7, 8 & 9 of the Building Code with the following:

**Section # 2** No building shall be started or altered without the benefit of a permit if the value of said construction or alteration is (\$2500.00 Residential \$1000.00 Commercial) or more and no building shall be put to any use different than the use on the day of the enactment of this ordinance until a permit therefore has been issued under the terms of this ordinance. No permit is required (residential only) for repairs necessitated by normal wear and tear provided that such repair is not a structural repair, restores the structure to it original condition and the repair does not effect more than 50% of the value of the structure. (Electrical, Plumbing and HVAC permit threshold \$100.00)

**Section # 7 SEWER CONNECTIONS:** All sewer connections contained within the footprint of the structure in the Commercial, Office & Industrial districts; non-metallic pipe may be used unless conditions, design or the Authority having

Jurisdiction warrant the use of metallic pipe. Non-metallic or equivalent may be used in all other installations. All connections made outside the structure are subject to the requirements of the Sewer Commission.

**Section # 8 PIPING MATERIALS:** In the Commercial, Office & Industrial districts, where the general public is allowed, all piping connections, electrical conduit, traps and vents shall be metal unless contained within a fire rated wall, ceiling or floor. (Fixture to wall or floor if in an open space shall be metallic)

**Section # 9 SWIMMING POOLS:** Any pool designed for swimming shall be completely fenced with a fence at least four feet in height. The gate or access to the fenced area shall be locked at all times that the pool is un-attended.

**Yes: 132 No: 77**

**ARTICLE 4.** Shall the Town adopt the provisions of RSA 31:95-c to restrict 100% of revenues from Newington Ambulance and EMS calls to expenditures for the purpose of purchasing ambulance vehicles and providing ambulance supplies and emergency medical services? Such revenues and expenditures shall be accounted for in a Special Revenue Fund to be known as the Newington Emergency Medical Services Fund, separate from the general fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund source of revenue.

**THIS ARTICLE IS NOT RECOMMENDED BY THE SELECTMEN**

**Yes: 16 No: 50**

**ARTICLE 5.** If the voters of the Town of Newington approve Article 4 shall the Town appropriate up to the sum of \$200,000 from revenues generated from ambulance and emergency medical service calls for purchasing ambulance vehicles and providing, improving, and/or enhancing ambulance and emergency medical services? Adoption of this article will have no effect on the Town's tax rate.

**THIS ARTICLE IS NOT RECOMMEND BY THE SELECTMEN  
THIS ARTICLE IS NOT RECOMMENDED BY THE BUDGET COMMITTEE**

**No action was taken because Article 4 was not adopted.**

**ARTICLE 6.** Shall the Town adopt the provisions of RSA 31:95-c to restrict 100% of revenues from Fire Alarm Maintenance Fees to expenditures for the purpose of maintaining, replacing, upgrading, and/or operating Fire Alarm System? Such revenues and expenditures shall be accounted for in a Special Revenue Fund to be known as the Fire Alarm Fund, separate from the general fund. Any surplus in said fund shall not be deemed part of the general fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund source of revenue.

**THIS ARTICLE IS NOT RECOMMENDED BY THE SELECTMEN**

**Yes: 10      No: 59**

**ARTICLE 7.** If the voters of the Town of Newington approve Article 6 shall the Town appropriate up to the sum of \$100,000 from revenues generated from fire alarm fees and /or fines to operate, maintain, and upgrade the Fire Alarm System in Town of Newington? Adoption of this article will have no effect on the town's tax rate.

**THIS ARTICLE IS NOT RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS NOT RECOMMENDED BY THE BUDGET COMMITTEE**

**No action was taken because Article 6 was not adopted.**

**ARTICLE 8.** Shall the Town raise \$9,176.00 and appropriate \$91,760.00 to fund the Fire Operations and Firefighter Safety program? The Federal Emergency Management Agency will contribute \$82,584.00 as part of the Assistance to Firefighters Grant Program for a total program cost of \$91,760.00. The grant targets two areas of Firefighters Assistance: Equipment \$47,660.00 and Construction \$44,100.00. This appropriation is in addition to the operating budget (Majority vote required.)

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 9.** Shall the Town appropriate \$23,698.00 to fund Firefighter's Personal Protective and Detection Equipment? The Federal Emergency Management Agency will contribute \$1,818.00 from 2003 Homeland I Grant; \$1,880.00 from 2003 Homeland II Grant; \$20,000.00 from 2003 Competitive Award. This appropriation is in addition to the operating budget. (Majority vote required.)

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 10.** To see if the Town will vote to raise and appropriate the sum of Fifty Thousand Dollars (\$ 50,000) to be placed in the existing Conservation Fund established in accordance with RSA 36-A:5 to be used for expenses associated with the purchase of conservation land and open space, easements, wetlands, and other land management acquisitions.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 11.** To see if the Town of Newington will vote to establish a Capital Reserve Fund under the provisions of RSA 35:1 for the purpose of major Municipal Building Emergency Repairs and to raise and appropriate the sum of Fifty Thousand Dollars (\$50,000) to be placed in this fund and to appoint the Board of Selectmen as agents to expend from this fund.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 12.** To see if the Town will vote to raise and appropriate the sum of Fifty Thousand Dollars (\$50,000) to be placed in the existing Capital Reserve Fund for the replacement and/or repair of vehicles operated by the Fire Department.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 13.** To see if the Town will vote to raise and appropriate the sum of Thirty Five Thousand Dollars (\$35,000) to be placed in the existing Capital Reserve Fund for the Revaluation of the Town.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 14.** To see if the Town will vote to raise and appropriate the sum of Thirty Thousand Dollars (\$30,000) to be placed in the existing Capital Reserve Fund for the replacement of the Town Ambulance and any major medical equipment.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Amendment to increase appropriation to \$50,000 passed, 39 to 27.**

**Motion to adopt the amended article passed by a vote of 41 to 28.**

**ARTICLE 15.** To see if the Town will vote to raise and appropriate the sum of Twenty-Five Thousand Dollars (\$25,000) to be placed in the existing Capital Reserve Fund for the Fox Point Pavilion.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 16.** To see if the Town of Newington will vote to establish an Expendable Trust Fund under the provisions of RSA 31:19-a, to be known as the Town Employee's Accumulated Leave Fund, for the purpose of payments of Severance to Town Employees in accordance with the Town's Personnel Policy and to raise and appropriate the sum of Twenty Thousand Dollars (\$20,000) to be placed in this fund and to appoint the Board of Selectmen as agents to expend from this fund.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 17.** To see if the Town will vote to raise and appropriate the sum of Ten Thousand Dollars (\$10,000) to be placed in the existing Capital Reserve Fund for Fire Department Communications.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 18.** To see if the Town will vote to increase the compensation for the Town Clerk from \$14,000 to \$15,400 annually and to raise One Thousand, Four Hundred Dollars (\$1,400) to fund this purpose for year 2004. This appropriation is in addition to the operating budget.

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN  
THIS ARTICLE IS RECOMMENDED BY THE BUDGET COMMITTEE**

**Adopted by voice vote**

**ARTICLE 19.** Shall the Town vote to authorize the Board of Selectmen to have jurisdiction over future compensations for the Town Clerk, without further action by the town meeting? Such Authorization shall remain in effect until rescinded by a vote of the Town. (Majority vote required)

**Adopted by voice vote**

**ARTICLE 20.** Shall the Town vote to modify the Veteran's Property Tax Credit under the provisions of RSA 72:27a as follows: the Credit subtracted from the total tax due for qualified taxpayers shall be increased from \$100.00 to \$300.00. (Majority vote required)

**THIS ARTICLE IS RECOMMENDED BY THE SELECTMEN**

**Article was amended to increase the tax credit to \$500.**

**Amended article then passed by a voice vote.**

**ARTICLE 21.** To see if the Town will vote to release the Town's interest in a sewer easement between River Road and the Industrial Corridor Road which was given to the Town in 1979 (RCRD 2347/0220) and which is no longer needed by the Town as a result of the construction of the Industrial Corridor Road. (Majority vote required)

**Adopted by voice vote**

**ARTICLE 22.** Shall the Town accept the provisions of RSA 31:95-b providing that any town at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the selectmen to apply for, accept and expend, without further action by the town meeting, unanticipated money from a state, federal or other governmental unit or a private source which becomes available during the fiscal year? (Majority vote required.)

**Adopted by voice vote**

**ARTICLE 23.** To see if the Town will vote to authorize the Board of Selectmen to accept gifts of personal property, other than cash, to the municipality for any public purposes. This authorization, in accordance with RSA 31:95e, shall remain in effect until rescinded by a vote of the Town meeting. (Majority vote required)

**Adopted by voice vote**

**ARTICLE 24.** To see what sum the municipality will vote to raise and appropriate for the operating budget. The budget committee recommends \$3,790,024; the selectmen recommends \$3,792,625. This article does not include appropriations voted in other warrant articles.

**Voted to raise and appropriate the amount  
recommended by the Budget Committee: \$3,790,024**

**ARTICLE 25.** To hear the report of the Moderator on the election of officers.

Given under our hands and seal this 17<sup>th</sup> day of February 2004.

We certify and attest that on the 17<sup>th</sup> day of February 2004, we posted a true and attested copy of the within Warrant at the place of Meeting, and like copies at the South Newington Bulletin Board and the Meeting House, and delivered the original to the Town Clerk.

**Town of Newington Board of Selectmen**

*John O'Reilly, Chairman*

*Cosmas Iocovozzi*

*Janice Stuart*

*A True copy of Warrant: Attest*

*John O'Reilly, Chairman*

*Cosmas Iocovozzi*

*Janice Stuart*