

# **Town of Newington**



## **2023 Zoning Ordinance**

- **Building Code**
- **Subdivision**
- **Site Plan Review Regulations**
- **Road Construction Specifications**
- **Historic District Regulations**

# **LAND USE REGULATIONS**

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*Town of Newington  
New Hampshire*

March 14, 2023

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# Town of Newington Zoning Ordinance (NZO)

## ARTICLE I – *Introduction*

**SECTION 1 - Authority:** This ordinance has been prepared in accordance with the provisions of NH RSA 674:16 to 21. It was originally adopted by the voters of the Town of Newington, New Hampshire, in an official meeting convened in March 1951.

**SECTION 2 – Title and Certification:** This ordinance and accompanying official zoning map shall be known as and may be cited as the Zoning Ordinance, Town of Newington, New Hampshire. An Official Zoning Map is one certified by signatures of the Board of Selectman, attested by the Town Clerk's signature, and dated with the date of adoption of the NZO. Map changes require annotation of changes with a new adoption date and the Board of Selectmen and Clerk to re-sign. The Town Clerk retains a master copy of the NZO on file as the final authority for resolving disputes.

**SECTION 3 - Purpose:** This ordinance promotes health, safety, morals, convenience, economic prosperity, and general welfare in the Town of Newington, NH. It regulates use, civic design and arrangement of structures and land for trade, industry, residence, transportation, and other public requirements in accordance with the Town Master Plan to retain the rural charm now attached to our town. The ordinance seeks to achieve its purpose by defining standard terms; establishing districts; setting limits on structures and land use; identifying requirements for specific facilities, businesses and land use; and identifying procedures for the administration, amendment and enforcement of this Zoning Ordinance.

**SECTION 4 - Jurisdiction:** The provisions of this ordinance shall govern all structures, all land and all water areas within the boundaries of the Town of Newington, with the exception of land that falls within the jurisdiction of the Pease Development Authority. In that situation, the role of the Town and its regulations shall be advisory. See NH RSA 12-G:13.



## ARTICLE II - *Definitions*

**SECTION 1 - General Definitions:** Except as specifically defined herein all words in this ordinance shall carry their customary dictionary meanings. For the purpose of this ordinance, certain words or terms used herein are defined as follows:

**"Town"** means the Town of Newington.

**"Legislative Body"** means an Annual or Special Town Meeting.

**"Municipal Officers"** means the Board of Selectmen, Town of Newington, New Hampshire.

Words used in the present tense include future tense.

Words used in the singular include the plural, and words used in the plural include the singular.

The word **"shall"** is mandatory; the word **"may"** is permissive.

The word **"person"** includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The word **"lot"** or **"occupied"** as applied to any land or building or water area, shall be construed to include the words, **"intended, arranged, or designed to be used or occupied"**.

## SECTION 2 - List of Definitions

**Abandoned Sign:** Any sign which pertains to a time, event, or purpose which no longer applies, or to a business which is no longer on the premises, shall be deemed to have been abandoned.

**Abutter:** Any person whose property adjoins, is directly across the street or stream, or is within 200 feet of the land under consideration by the Planning Board or Zoning Board of Adjustment including any person whose property meets these criteria and is located in a neighboring municipality. For the purposes of receiving testimony only and not for the purpose of notification, the term Abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term Abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII

**Accessory dwelling unit (ADU)** is a subordinate dwelling unit that is within or attached to a single-family dwelling and provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every accessory dwelling unit shall be deemed a unit of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59.

**Accessory Use or Building:** A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Adult Bookstore or Adult Video Store:** A business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area, utilized for the display, sale or rental of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMs or other forms of visual or audio representations which meet the definition of "*harmful to minors*" and/or "*sexual conduct*" as set forth in NH RSA 571-B:1; or, instruments, devices, or paraphernalia which are designed for use in connection with "*sexual conduct*" as defined in NH RSA 571-B:1, other than birth control devices. An adult bookstore or adult video store does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total floor area of the establishment to the sale of books and periodicals.

**Adult Cabaret:** A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which meet the definition of "*harmful to minors*" and/or "*sexual conduct*" as set forth in NH RSA 571-B:1, and/or feature films, motion pictures, video cassettes, slides or other photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material which meets the definition of "*harmful to minors*" and/or "*sexual conduct*" as set forth in NH RSA 571-B:1.



**Adult Drive-In Theater:** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material which meets the definition of *"harmful to minors"* and/or *"sexual conduct"* as set forth in NH RSA 571-B:1.

**Adult Motel:** A motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis upon the depiction of materials which meet the definition of *"harmful to minors"* and/or *"sexual content"* as set forth in NH RSA 571-B:1.

**Adult Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material which meets the definition of *"harmful to minors"* and/or *"sexual conduct"* as set forth in NH RSA 571-B:1.

**Adult Motion Picture Theater:** An establishment with a capacity of five or more persons, where for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which meets the definition of *"harmful to minors"* and/or *"sexual content"* as set forth in NH RSA 571-B:1, for observation by patrons. For the purposes of this ordinance, substantial portion of the total presentation time shall mean the presentation of films or shows described above for viewing on more than seven days within any 56 consecutive day period.

**Adult Theater:** A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by an emphasis on activities which meet the definition of *"harmful to minors"* and/or *"sexual conduct"* as set forth in NH RSA 571-B:1.

**Attached Sign:** A sign which is attached to a building.

**Bed and Breakfast:** A private owner-occupied residence that advertises and offers sleeping accommodations to guests in four or fewer rooms for rent with the owner present and provides breakfast to guests only. A guest is defined as a person who rents a room in a bed and breakfast facility for fewer than 30 consecutive days.

**Billboard:** A sign which directs attention to a business, product, activity or service which is not conducted, sold or offered on the premises where such sign is located.

**Boarding or Rooming House:** A dwelling in which living space without kitchen facilities is rented to three or more persons with or without meals.

**Building:** Any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels.

**Building Height:** The vertical difference between the average grade of the four outside corners of the foundation of the building at grade and the highest roof line or parapet wall. Chimneys, vents or utility service structures shall not be included in the measurement of vertical dimensions.

**Building Frontage:** The width of a building's primary facade, at grade level.

**Business Sign:** A sign which directs attention to a business, profession, service, product, activity, or entertainment sold or offered upon the premises where such sign is located.

**Dwelling - Single Family:** A detached building containing one dwelling unit.

**Dwelling - Two-Family:** A detached building containing two dwelling units.

**Dwelling Unit:** A house, an apartment, or other group of rooms, or a single room is regarded as a dwelling unit when it is used for the year-round occupancy as separate living quarters, that is, when the occupants do not live and eat with any other persons in the structure and there is either direct access from outside or through a common hall, or a kitchen or cooking equipment for the exclusive use of the occupants of the unit.

**Family:** One or more persons occupying a dwelling unit and living as a single housekeeping unit.

**Free Standing Sign:** A sign which is not attached to a building.

**Frontage:** Shall mean the width of the lot bordering on the public right-of-way. In those instances, in which a property abuts multiple public ways, the Planning Board shall determine which side of the parcel is frontage.

**Front Yard:** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and located between the street right-of-way line and the front line of the building projected to the side lines of the lot.



**Home Occupation:** An occupation conducted by a town resident in his/her legally established domicile, and which employs no non-residents.

**Home Business:** A business owned and operated by a town resident in his/her legally established domicile. The business may employ up to a maximum of three non-residents.

**Industrial Corridor Road:** A roadway corridor which begins at Woodbury Avenue and runs easterly down Piscataqua Drive, thence turns and runs northward to River Road, as depicted by plans prepared by Meridian Land Services, dated February 12, 1999, Revision V.

**Junk Yard:** A place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. As used in this subdivision, the term includes, but is not limited to, the following types of junk yards:

(a) Automotive recycling yards, meaning a motor vehicle junk yard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;

(b) Machinery junk yards, as defined in paragraph III; and

(c) Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

(1) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or

(2) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle

**Lot:** A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this ordinance, and having frontage upon a public street.

**Lot Width:** The distance between the side boundaries of the lot measured at the front building line.

**Major Street:** A street designated as such in the Major Street Plan.



**Meteorological Tower (Met Tower).** This is a temporary (3 years or less), information gathering tower. It includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**Manufactured Housing:** Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674:31-a

**Manufacturing, Light** means all manufacturing and assembly processes carried on completely within an enclosed structure and involving no permanent outside storage of equipment or materials, except as a customary accessory use in connection with the permitted activities. This definition shall not be interpreted to include any industry, the operations of which shall result in significant objectionable noise, glare, vibration, dust, smoke or odor which would constitute a nuisance. No individual raw materials or processed parts shall exceed 1,000 pounds, or as determined by the Planning Board.

**Modification.** Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

**Net Metering.** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period

**Non-conforming Lot:** A lot whose area is less than the minimum dimensional requirements for the zoning district in which it is situated.

**Non-conforming Use:** A use of land which is not permitted by the ordinance for the zoning district in which the use occurs.

**Non-conforming Structure:** A structure which does not comply with the terms of the ordinance.

**Nude Model Studio:** A place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals, and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration or such display is characterized by an emphasis on activities which meet the definition of "*harmful to minors*" and/or "*sexual conduct*" as set forth in NH RSA 571-B:1.

**Nursing Home:** Any dwelling place licensed by the State of New Hampshire in which three or more aged, disabled or ill persons who are dependent or not capable of properly caring for themselves are housed and furnished with meals, whether served in a central dining room or otherwise, and nursing care for compensation. This includes "convalescent facilities" and "rest homes" or "elderly congregate care residential facilities" limited to persons fifty-five (55) years of age or older with a present or anticipated future need for on-site nursing care.

**Off-Premise Sign:** A sign which advertises or publicizes an activity not conducted on the premises upon which such sign is situated.

**Power Grid.** The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

**Rear Yard:** An open space on the same lot with a principal building, unoccupied except by a permitted accessory building, or use, extending the full width of the lot and located between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

**Recreational Vehicle:** To be defined.

**Retail:** A use devoted to the sale, rent or lease of merchandise directly to the consumer for use off premises. For the purposes of this ordinance, wholesale clubs shall be considered a retail use.

**Right-of-Way** means and includes all town, state and federal highways and the land on either side of same as covered by statutes to determine the width of right-of-way, also all private rights-of-way.

**Self-storage:** Buildings that are used for storage. Typically, a single self- storage facility will contain a variety of individual units that are rented out for storing of personal belongings

**Sexual Encounter Center:** A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration: physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or when the activities in sections *A* or *B* above are characterized by an emphasis on activities which meet the definition of "*harmful to minors*" and/or "*sexual conduct*" as set forth in NH RSA 571-B:1.



**Sexually Oriented Business:** adult bookstore, adult video store, adult motion picture theater, adult motion picture arcade, adult drive-in theater, adult cabaret, adult motel, adult theater, nude model studio, sexual encounter center, or any combination of the above.

**Shopping Center:** A group of retail stores, planned and developed for the site on which they are built.

**Side Yard:** An open, unoccupied space on the same lot with a principal building located between the side of the building and the sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard. On corner lots, the side yard abuts a street, and the side yard requirements shall conform to those of the front yard.

**Sign:** Any device, structure, banner, fixture, placard, or painted surface

A) which uses graphics, symbols, and/or written copy to advertise or identify any establishment, product, goods, service, or activity, and

B) whose surface area is two square feet or larger, and

C) is visible from the public right-of-way.

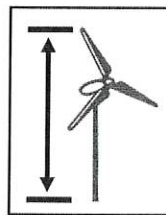
**Shadow Flicker.** The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

**Small Wind Energy System:** A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

**Structure:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground. For the purposes of this ordinance, the following shall not be considered structures: docks, detached stairways, and paved driveways utilized for access to a property.

**System Height (Wind Generation):**

The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.

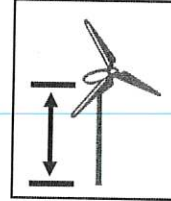


**Telecommunications Facility:** Any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications service (PCS), and common carrier wireless exchange access services.

**Temporary Sign:** A sign announcing a new business on the premises, said sign only to be displayed while awaiting installation of a permanent sign;

**Tower:** The monopole, guyed monopole or lattice structure that supports a wind generator.

**Tower Height (Wind Generation):**  
The height above grade of the fixed portion of the tower, excluding the wind generator.



**Variance:** A relaxation of the terms of the ordinance, in accordance with NH RSA 674:33. See Article XIX Administration.

**Warehouse:** An enclosed structure or room for the storage of merchandise or commodities or other items related to a principal use in the zoning district. This does not include a self-storage facility or the like.

**Wind Generator:** The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

## ARTICLE III – Zoning *Districts*

For the purpose of this ordinance, the Town of Newington is divided into the following zones as shown on the official zoning map on file with the Town Clerk and the Rockingham County Registry of Deeds. The district boundaries are shown on the Official Zoning Map.

1. *Residential District - R Zone*
2. *Office District - O Zone*
3. *Commercial District – C Zone*
4. *Marina District - M Zone*
5. *Industrial District - I Zone*
6. *Waterfront Industry & Commerce District - W Zone*
7. *Historic – H Zone*
8. *Shattuck Way (SWOD Zone),*
9. *Pease Tradeport District - PT Zone*
10. *Natural Resource Protection District - NRP Zone*

### Overlay District:

Wetlands Overlay District (**WOD Zone**) See article VIII for details

### SECTION 1 - Residential District "R"

**A - Description and Purpose:** The Residential "R" District is established as a zone in which the principle use of the land is for single-family dwellings at low density, together with recreational facilities which will encourage the development of well-rounded neighborhood living. Also included in the "R" District are open areas where similar residential growth appears likely. Any future development which does not perform a neighborhood function is not allowed.

#### **B - Uses Permitted:**

- (1) Single family dwellings.
- (2) Two-family dwellings
- (3) Accessory Dwelling Unit
- (4) Accessory uses or buildings, including private garages, parking areas, non-commercial greenhouses, and workshops, providing they conform to the setbacks required for principal building.



- (5) Public facilities and grounds.
- (6) Home occupations and home businesses subject to the conditions specified in Article XIII below.
- (7) Roadside stand for the sale of produce raised within the Town of Newington provided that three off-street parking areas are provided.
- (8) Agriculture.
- (9) Bed & Breakfast Inns, provided that such facilities have no more than four (4) rooms for rent and that the Planning Board grants a Conditional Use Permit (CUP) and reviews and approves a site plan application. CUP criteria includes:
  - a) Proposal complies with the purpose of this Section;
  - b) The use is compatible with abutting and surrounding land uses;
  - c) The use provides both vehicular and pedestrian safety; and
  - d) There are no known site plan review issues of concern.

## **SECTION 2 - Office District "O"**

**A – Description and Purpose:** The *Office District* is a zone in which the principal use of the land is office buildings, research & development facilities, and light manufacturing. The Office District, like the other commercial / non-residential zoning districts in Newington, was strategically located between other commercial zoning districts which allow for very intense industrial and commercial uses. The portion of this district on the Easterly side of the Spaulding Turnpike provides for a large geographical separation from the Residential District to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions. It is also the intent of the ordinance to encourage the provision of safe and convenient pedestrian access between the district's office buildings and nearby restaurants.

### **B - Principal Uses Permitted:**

- (1) Offices, research & development facilities, biotech facilities, light manufacturing, warehouses, medical clinics, veterinary hospitals, and hotels not to exceed 45 feet in height.
- (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

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

**SECTION 3 - Commercial District "C"**

**A - Description and Purpose:** The *Commercial District* is a mixed-use zone in which the principal use of the land is retail sales, office buildings, research & development facilities, and light manufacturing. The Commercial District, like the other commercial / non-residential zoning districts in Newington, was strategically located between the Spaulding Turnpike and the Office District providing for a large geographical separation from the Residential District to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations within and adjacent to this district. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions. The rationale for permitting non-retail uses in this predominately retail area is to reduce the district's traffic congestion and safety problems by encouraging land uses which generate lower traffic volumes.

**B - Uses Permitted:** Retail, offices, research & development facilities, light manufacturing, restaurants, motels, hotels, theaters, storage facilities, barber & beauty shops, laundries, repair shops, places for public worship, indoor recreational facilities such as bowling alleys, roller skating rinks, and vehicle dealers (sale, rental, or leasing), hospitals, nursing homes, schools, conference centers, and facilities to treat the developmentally disabled.

**SECTION 4 - Marina District "M"**

**A - Description and Purpose:** The *Marina District* is established in recognition of the historic use of property in close proximity to the environmentally sensitive area of Little Bay and a portion of Newington's residential district. A continued marina use at this site is desirable due to the somewhat seasonal nature of the business, the relatively light traffic volume that is generated, and the recreational opportunities, and the unique economic benefits offered by such a facility.

**B - Uses Permitted:** The repair, servicing, storage, dockage, moorage, and maintenance of vessels.

**C - Accessory Uses Permitted:**

The following accessory uses, *if* clearly subordinate to the principal use as a marina, are permitted:

- (1) Sales of marine hardware and equipment;
- (2) Sales of vessels, e.g. yacht brokerage;
- (3) Restaurant/snack bar, not to exceed 75 seats;
- (4) Maritime related office use, e.g. marine surveyor;
- (5) Light manufacturing of marine related equipment, 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;

## **SECTION 5 - Industrial "I"**

**A - Description and Purpose:** The "I" District is established as a zone in which the principal use of the land is for industry and associated uses. The Industrial District, like the other commercial / non-residential zoning districts in Newington, was strategically located between other commercial and waterfront industrial zoning districts which allow very intense industrial and commercial uses and provides for a large geographical separation from the Residential District (excepting Patterson Lane which predated zoning in Newington) to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions. Certain open areas favorably situated with respect to transportation and containing other factors conducive to industrial development are also included. This is for the purpose of reserving suitable land for the expansion of existing industry and location of new industry.

### **B - Uses Permitted:**

- (1) Industries provided that they shall not produce traffic congestion, cause injurious or obnoxious noise, glare, vibration, air or water pollution, hazardous waste, sewerage problems, odor, dust, fire safety hazards or other factors detrimental to health, safety and welfare of the area.
- (2) Businesses customarily serving such industries
- (3) Public utility, transportation or communication facilities
- (4) Business signs subject to Article IV, Section 6
- (5) Warehouses, truck terminals and storage



- (6) Bulk oil stations
- (7) Public facilities and grounds
- (8) Telecommunication facilities, subject to the provisions of Article XIV.

## **SECTION 6 - Waterfront Industry and Commerce District "W"**

**A - Description and Purpose:** The "W" District is established as a zone in which the principal use is for activities which depend upon the ocean for transport or resources. There is a relatively limited amount of deep-water frontage in the State of New Hampshire. This prime land is recognized as an invaluable natural resource of the Town of Newington and should be reserved for optimum use so that the economic benefits may be realized to their fullest extent. Any installation on shore or offshore, temporary or permanent which interferes with the purposes of this district is prohibited. In addition, the docking of commercial cruise ships is not an appropriate use due to the existing heavy marine use in this zoning district.

### **B - Uses Permitted**

- (1) Any Industrial or Commercial activity dependent upon the ocean for transport or resources.
- (2) Marine related activities such as marine transport, marine construction, marine supply and support, vessel repair and the like. Marine research laboratory or testing or experimental facility related to the ocean.
- (3) Seafood processing and distribution.
- (4) Bulk material storage and distribution.
- (5) Energy generation facilities.
- (6) Desalination plant.
- (7) Business Signs, subject to the provisions of Article IV, Section 6.
- (8) Telecommunication facilities, subject to the provisions of Article XIV.

## **SECTION 7 - Historic Districts "H"**

**A - Description and Purpose:** The "H" District is established within the provisions of

RSA 674:46:

- (1) For the preservation of places and structures of architectural value and the heritage of the municipality which reflects its cultural, social, economic, political and architectural history;
- (2) Conserving property values in such Districts;
- (3) Promoting the use of the Historic District for the education, pleasure and welfare of the citizens of the municipality.

**B - The Designated Areas are:**

- (1) Beginning with both sides of Nimble Hill Road from the U.S. Air Base Line to its junction with Little Bay Road, the area to follow existing property lines of parcels fronting on said road.
- (2) All land and buildings at Bloody Point.

**C - Uses Permitted**

- (1) In the Nimble Hill District, any use permitted in a Single Family Residential "R" District, subject to the provisions of the Newington Historic District Ordinance.
- (2) In the Bloody Point District, any use permitted in the adjacent Office District, subject to the provisions of the Newington Historic District Ordinance.

**SECTION 8 – *Shattuck Way Overlay District “SW”***

Due to the unique nature of the Shattuck Way structures which abut the corridor shall be exempt from setback requirements in Article VI and the corner lot requirements specified in Article II. In lieu of the above referenced requirements, all paved parking lots adjacent to Shattuck Way shall be set back a minimum of fifty feet and all other structures adjacent to Shattuck Way shall be set back a minimum of seventy-five feet.

**SECTION 9 - Pease Tradeport District “PT”**

**A:** As noted in Article I Section 4, the Pease Development Authority (PDA) is the local land use regulatory authority (see RSA 12-G:13) for land use change for land controlled by PDA located in the Town of Newington. For further information, see the Pease Development Authority website regarding Land Use Controls in the documents section.

**B:** In the event that any land under the control of the Pease Development Authority



(PDA) within the town of Newington is transferred or sold to any entity other than the PDA, NO further development of any property may occur until such time as the Town of Newington adopts Ordinances and Regulations that address future development of land in Newington that was formerly under PDA control.

## **SECTION 10 - Natural Resource Protection District “NRP”**

**A - Purpose:** The NRP District is established in order to conserve natural resources, protect wildlife habitats, protect significant potable water resources, and to provide the public with opportunities for passive recreation.

**B – The Designated Areas are:**

- (1) Great Bay Wildlife Refuge – See the Town of Newington Official Zoning Map.
- (2) Great Bay Wildlife Refuge Extension – Fabyan Point lot # 50-1
- (3) NH Fish and Game – North Residential Area lot # 6-2
- (4) NH Fish and Game – South Residential Area lots #55-1 & 53-6-2
- (5) NH Fish and Game – Goat Island

**C - Permitted Uses:**

- (1) Tree farms, crop land uses, and forestry
- (2) Wildlife refuge support structures
- (3) Nature trails and water access structures

## ARTICLE IV - *General Provisions*

**SECTION 1 - Zoning Affects All Structures, Land and Water Areas:** Except as hereinafter specified, no structure, land or water area shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or altered unless in conformity with all regulations herein specified for the district in which it is located. The omission of a use from the list of those allowed in a particular district constitutes prohibition of that use in that district.

**SECTION 2 - Restoration of Unsafe Property:** Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector.

**SECTION 3 - Required Yard Space Shall Serve Only One Lot:** No part of the off-street parking or loading spaces required about any building for the purposes of complying with the provisions of this ordinance shall be included as part of the yard, open spaces, or off-street parking or loading space similarly required for any other building.

**SECTION 4 - Restrictions on Individual Manufactured Housing Units:** One single manufactured home may be maintained upon a lot in a residential district as a residence providing that all provisions of the district regulations as applicable to single-family dwellings are complied with.

**SECTION 5 - Restrictions on Removal of Sand, Gravel, Loam, Earth or Rock:** No loam or gravel shall be hauled from any property within the Town of Newington unless approved by the Planning Board and Board of Selectmen. This shall not be construed as prohibiting removal of such material for purposes of landscaping or property improvements on the loam or gravel owners' premises.

**SECTION 6 - Setbacks:** Accessory uses or buildings, including private garages, parking areas, non-commercial greenhouses and workshops, shall conform to the setbacks required for principal buildings.

**SECTION 7 - Turnaround Space and Driveways:** Adequate space shall be provided on each lot to prevent vehicles from backing onto a public road. Driveways shall have a minimum width of 10 feet.

**SECTION 8 - Junk Yards Prohibited:** Machinery junk yards, motor vehicle junk yards, and other type of junk yard and private or commercial dumps shall be prohibited within the Town.

**SECTION 9 – Scenic Roads:** Designated scenic roads are all Town of Newington roads west of the Spaulding Turnpike and north of the Newington / Greenland town line. When an activity such as the cutting or removal of trees or the alteration of all or a portion a stone wall is proposed on a designated scenic read, the Planning Board shall follow the procedures described in NH RSA 231:158.

**SECTION 10 - Buildings per Lot:** There shall be no more than one principal building and no more than one dwelling building per lot.

**SECTION 11- Duplexes and Utilities:** Each unit in a duplex shall have its own separate water and septic service and metered gas and electric power. The owner of the duplex unit is responsible for maintenance and repair of all utilities.

**Section 12 – Land Disturbance:** For any land disturbance such as building construction, redevelopment, excavation, earth removal, filling of land, disturbance of wetlands and the like, the applicant and or property owner shall ensure that there will be no increase in water runoff on to any abutting property. Any change in elevation requires written approval from the Building Inspector or Planning Board. This provision will be a condition of approval for a subdivision plan, site plan and building permit.

**Section 13 – Existing Employee residences:** For existing residences established in nonresidential districts as a caretaker, watchperson or manager for a particular business, the industry or business shall annually certify by April 1<sup>st</sup> using certified payroll presented to the Town Clerk that the resident is a bona fide employee of the business or industry and works as a caretaker, watchperson or manager. If the resident is no longer an employee of the business, the building shall no longer be used as their residence.



# ARTICLE V—*Accessory Dwelling Units (ADUs)*

**SECTION 1 - Designation:** One accessory dwelling unit shall be permitted only on parcels which meet the following conditions:

- A. A legal lot of record;
- B. Contains one existing single-family detached dwelling which is a conforming use;
- C. Contains no other accessory dwelling residence(s).

**SECTION 2 - Procedure:** Each accessory dwelling unit shall require a building permit and an occupancy permit and meet the standards contained in the section below.

## **SECTION 3 - Standards:**

A. New construction for an accessory dwelling unit shall comply with all the development standards for a single-family detached dwelling including, but not limited to, setbacks, height limits and shall not increase any nonconforming aspect of any existing structure.

B. The following standards shall also apply:

1. The maximum size of an ADU shall not exceed 1,000 sq. ft. area.
2. Both the ADU and the primary residence shall comply with the state Building Code and Fire Code regulations for construction, minimum living space, fire exits and smoke alarms.
3. An accessory dwelling shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size or development density of the property.
4. The main exterior entrances may not be on the same side of the building.
5. An interior door shall be provided between the principal dwelling unit and accessory dwelling unit. There is no requirement for said interior door to remain unlocked.
6. The architecture of the ADU shall match that of the primary residence.

7. Adequate off-street parking spaces shall be provided in addition to those required for the primary residence for a minimum total of three. Adequate space for a turn-around shall be provided.
8. Adequate off-street parking spaces shall be provided in addition to those required for the primary residence for a minimum total of three. Adequate space for a turn-around shall be provided.
9. There shall be no exterior stairway leading to the ADU on the front of the house.
10. There shall be no more than two bedrooms in an ADU.
11. The applicant shall make adequate provisions for water supply and sewage disposal in accordance with NH RSA 485-A: 38; however, separate utility connections are not required by the Town.
12. The owner of a property containing an accessory dwelling shall reside in either the principal or the accessory dwelling.
13. There shall be no conveyance of an accessory dwelling unit separate from the principal dwelling unit by subdivision, as that term is defined by NH RSA 674:14, nor shall the accessory dwelling unit have ownership separate from the owner of the lot on which the principal dwelling unit located. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal single-family dwelling.
14. No more than four persons shall occupy an ADU.



## ARTICLE VI - *Non-conforming Property*

**SECTION 1 - Expansion:** Non-conforming uses and non-conforming structures shall not be enlarged, expanded or extended. Otherwise conforming uses and conforming structures on land smaller than the minimum lot size specified in Table VI-1 may be enlarged subject to meeting all other ordinance requirements.

**SECTION 2 - Cessation:** If a non-conforming use ceases for a period of one year, or if the intent to maintain such a use ceases, all subsequent uses shall conform to the terms of the Zoning Ordinance. If a fire, flood or type of disaster destroys a non-conforming use, the land owner shall have two (2) years in which to construct the building in the same approximate area

# ARTICLE VII - *Dimensional Requirements*

**SECTION 1** - No building or structure shall be erected, enlarged or moved, nor shall any land use be authorized or extended, nor shall any existing lot be changed as to size or shape, except in accordance with Table VI - 1. In Table VI-I, Land Area is in thousands of square feet.

Table VII - 1

Zone	Minimum Lot Dimensions		Minimum Setbacks		Maximum Building Height	Maximum Building Coverage
	Land Area	Contiguous Road Frontage <sup>1</sup>	Front	Side & Rear		
<i>Airport Industrial</i>	80	200'	70'	50'	#	
<i>Industrial</i>	200	100'	75'	50'	#	
<i>Light Industrial</i>	40	100'	40'	20'	30'	
<i>Marina</i>	120	300'	75'	30'	35'	30%
<i>Mobile Home</i>	12	50'	30'	10'	15'	
<i>Office</i>	120	300'	75'	30'	#	
<i>Residential – One family</i>	80	200'	40'	15'	35'	
<i>Residential - Two family</i>	120	200'	40'	15'	35'	
<i>Commercial</i>	120	300'	75'	30'	35'	30%
<i>Waterfront Industrial</i>	200	100'	75'	50'	#	

#= Height of structures in these districts are subject to Planning Board approval.

- A. Non-Residential Building Height Limits:** *The above referenced height limits shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, transmission towers, chimneys, conveyors, derricks, radio and television towers, and other structures not intended for human occupancy.*
- B. Residential Building Height Limits:** *The Planning Board may grant a Conditional Use Permit to allow buildings to exceed the height limits if it finds, based on the information and testimony submitted with respect to the application, that conditions presented in this Section have been met. Granting of a Conditional Use Permit shall authorize the applicant to apply for a building permit once all other applicable town, state and federal requirements have been complied with.*

**SECTION 2 – Maximum Length of Residential Roads:** Dead end streets located in Residential Zoning Districts shall not exceed 1,500' in length measured along the centerline of the road commencing at the edge of the pavement of the existing road to the furthest point of the cul de sac.

<sup>1</sup> Frontage may be along one or more contiguous, accessible public roads.

# Article VIII *Wetlands Overlay 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 and 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 by Conditional Use Permit as provided for in Section 4C below.

(7) 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 and wharves.

### **C. Conditional Use Permit**

(1) The Planning Board may grant a Conditional Use Permit (CUP) in accordance with RSA 674:21, II for the construction of roads and other access ways, and for utility pipelines, underground lines, power lines, and other transmission lines provided that all of the following conditions are found to exist:

- i. The proposed construction is essential to the productive use of land not within the Wetlands Conservation District.
- ii. Design and construction methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.
- iii. No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible.
- iv. Economic advantage alone is not reason for the proposed construction.

(2) Prior to the Planning Board's granting of a Conditional Use Permit, the applicant shall agree to submit a performance security to the Board of Selectmen. The security shall be submitted in a form and amount, with surety and conditions satisfactory to the Selectmen and approved by Town Counsel, to ensure that the construction has been carried out in accordance with the approved design. The security shall be submitted and approved prior to the issuance of any permit authorizing construction.

(3) The Planning Board, with the concurrence of the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this Part. The cost of this assessment shall be borne by the applicant.

(4) The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for review of documents required by particular applications.

## 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 includes at least 30,000 contiguous square feet of land area and 60,000 contiguous square feet for two-family dwellings outside of wetland buffers and property line setbacks.

## 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 Wetlands & Surface Waters: A guidebook for New Hampshire Municipalities*, revised May 1997).

Resource	Size of Resource	Type of Buffer	Size of Buffer
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 Shoreland 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.

Resource	Size of Resource	Relationship to Surface Waters	Minimum Setback
All Wetlands	All Sizes greater than 3,000 Square feet	Contiguous with Surface Waters	100 Feet
All Wetlands except Prime Wetlands & Vernal Pools	Greater than 5,000 square feet	Not Contiguous with Surface Waters	50 Feet
All Wetlands except Prime Wetlands & Vernal Pools	5,000 square feet or less	-	0 Feet
Vernal Pools	All Sizes	-	50 Feet



### **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, the Town can seek relief as per RSA 676:15; the Town may impose civil fines imposed as per RSA 676:17.

# Article IX – Signs

**SECTION 1 - Purpose & Intent:** The purpose of this article is to permit and regulate signs in a manner that protects the public and maximizes traffic safety; enhances the aesthetic and visual environment of the Town; and protects the economic advantages enjoyed by Newington property owners, including property values. These purposes are consistent with the objectives of the Town’s Master Plan.

## **SECTION 2 – Definitions:**

- A. “Sign” means: (1) any advertising device including any structure billboard, outdoor sign, notice, poster, display figure, painting, message, placard, or any other device which is designated or intended to attract, or which does attract the attention of pedestrians or operators of motor vehicles in the public rights-of-way; (2) any structure erected or used in connection with the display of an advertising device; (3) and all lighting or other attachments used in conjunction with the advertising device.
- B. “Off-Premise Sign” means a sign that advertises a business, product, or service not available on the lot on which the sign is located.
- C. “Permanent Sign” means a sign that is permanently affixed to the ground or to a building, including Free Standing Signs, Attached Signs, and Entrance & Exit Signs.
- D. “Temporary Sign” means a sign that is erected for a limited duration or that is not permanently affixed to the ground or to a building. A temporary sign is “small” if its area per sign face is four square feet or less. A temporary sign is “large” if its area per sign face is larger than four square feet, up to a maximum of 32 square feet.

**SECTION 3 - Sign Permit Required:** No permanent sign, except those that are specifically exempted by the terms of this article, shall be erected without a *Sign Permit* issued by the Town Planner. No temporary sign that advertises a business, product, or service available on the lot on which the sign is located shall remain erected for longer than fourteen weeks without a Sign Permit issued by the Town Planner

An applicant seeking a sign permit shall identify: (1) the proposed or existing sign for which a permit is sought; (2) the sign’s dimensions, design, materials, fabrication, and installation method; (3) the location of the sign and any pertinent setbacks and roadways; (4) the intended duration that the sign will remain erected; (5) a signed statement regarding whether the sign complies with the terms of this Ordinance.

**SECTION 4 – Exempt Signs:** Signs that are erected, maintained or otherwise posted, owned or leased by the federal government, the State of New Hampshire or the Town of Newington or installed per the order of the Newington Selectmen or their agents are exempt from the requirements of this ordinance.

**SECTION 5 – Sign Quantity Limits:** Lots are limited to the following number of signs:

Table IX-1 – *Sign Quantities*

		All Zones
Permanent Signs:	Free Standing and Attached Signs	1 Free Standing or Attached Sign per lot*
	Entrance Signs, Exit Signs	1 Entrance and 1 Exit sign per driveway
	Building Identification Sign	1 sign per lot*
Temporary Signs	Small	Unlimited per lot**
	Large	1 sign per lot

\* For lots that have road frontage on two or more roads (such as a corner lot), the lot may have one free standing or attached sign and one building identification sign facing each road.

\*\*Although a lot is not limited to a certain quantity of small temporary signs, such signs are not permitted to the extent that the quantity of such signs creates or contributes to traffic safety issues.



**Section 6 -Dimensional Limits:** All signs shall adhere to the dimensional requirements set forth below. In determining the surface area of a free-standing sign, each side of the sign used as an advertising device shall be measured.

Table IX-2 - *Dimensional Limits*

		Commercial	Office, Airport, & All Industrial Zones	Other
<b><u>Permanent Signs</u></b>				
<i>Free Standing Signs</i>	Maximum sign area, per side	100 sf*	50sf*	2sf
	Maximum aggregate sign area, all sides	200sf	100sf	4sf
	Maximum height above grade	35'	20'	6'
<i>Attached Signs</i>	Maximum aggregate sign area on building front	**	150sf	4sf
	Maximum aggregate sign area on building sides & rear (each side)	75sf	25sf	4sf
<i>Entrance, Exit, and Building Identification Signs</i>	Maximum area per sign face	4sf	4sf	4sf
<b><u>Temporary Signs</u></b>				
<i>Small</i>	Maximum area per sign face	4sf	4sf	4sf
<i>Large</i>	Maximum area	32sf	32sf	32sf

\* 1.5 square feet of sign area allowed for every linear foot of building frontage, up to the maximum specified. For lots with frontage on two or more roads, maximum sign area is calculated for each road frontage separately.

\*\* 1 square foot of sign area allowed for every linear foot of building frontage of each individual business.

**SECTION 7- Sign Duration For Certain Temporary Signs:** No temporary signs that advertise a business, product, or service available on the lot on which the sign is located are allowed for longer than fourteen weeks total without a sign permit. For such applicable temporary signs related to an event or project, such as offers to sell, rent, or lease the premises, construction, renovation, yard sale, election, or any other event, temporary signs must be removed within two weeks of the end of the event or project. An applicant may apply for a permit to keep such a temporary sign in place for longer than fourteen weeks, with no maximum duration.

**SECTION 8 - Setbacks:**

- A. Permanent Signs-General: all permanent signs shall adhere to the minimum setbacks from property lines required by this ordinance of principal buildings.
- B. Permanent Signs-Residential: Permanent signs in the residential zone shall adhere to the minimum side and rear setback from property lines required by this ordinance or principal buildings, but may be situated as close as twenty feet to the roadway pavement.
- C. Entrance & Exit Signs: To the extent that an entrance sign, exit sign, or other directional sign cannot be practically placed while complying with the setback requirements, that sign is exempt from minimum setback requirements to the extent necessary.
- D. Temporary Signs: Large temporary signs shall adhere to the minimum side and rear setbacks from property lines required by this ordinance of principal buildings, but may be situated as close as twenty feet to the roadway pavement. Small temporary signs that are constructed of cardboard, corrugated plastic, or similar material and which would not pose a significant safety risk should a motor vehicle collide with the sign may be situated within the public right of way as close as three feet to the roadway pavement.

**SECTION 9 - Prohibited Signs & Devices, All Zoning Districts:** The following are prohibited:

- A - Signs that are **animated, moving, flashing**, or signs that emit **noise**.
- B - Rotating **beacons**.
- C - **Off-Premise** signs.
- D - Signs **painted on or attached to a vehicle or trailer** parked for the purpose of being an "advertising device," as defined in RSA 236:70, I.
- E - Signs that, in the judgment of the Selectmen, **impede the view** of traffic, traffic safety signs, or traffic signals.
- F - Signs that contain **obscene** content.

**G** - Signs that present a substantial risk of collapse, detachment, fire, or electric shock, which risk is due to:

- i. Design, materials, fabrication, or installation that are inadequate to withstand the effects of the elements;
- ii. Deterioration or decay from exposure to the elements over time; or
- iii. Damage from accident, vandalism, or acts of nature.

**H** - Free standing signs, excluding temporary signs, that are **not permanently anchored** to the ground.

**I** - Attached signs which extend above the building's **parapet or eaves**.

**J** - Any sign or any sign location that is **not specifically permitted** by this article.

**K** - Any sign located on public property.

## **SECTION 10 – Lighting**

- A. Shielding:** Light directed toward signs shall be shielded in such a way that the source of said light is not visible three feet above grade at the lot line. Light directed toward signs must be sufficiently shielded to prevent beams or rays from being directed at any portion of roads.
- B. Color & Intensity:** Light must be white in color and may not be of sufficient intensity or brilliance to cause glare, impairment of vision, or distraction of a driver of a motor vehicle.
- C. Neon Lighting & Signs:** The secondary voltage of the transformer(s) shall not exceed 7,500 volts. All exterior mounted electric-discharge tubing shall be protected from the weather.

**SECTION 11 - Sign Maintenance:** Every sign shall be maintained in good structural condition at all times. The Selectmen or their designee shall have the authority to order the painting, repair, alteration or removal of any sign that is not properly maintained or otherwise poses a substantial risk as set forth in Section 7(G). Upon failure to comply with an order to repair or remove said sign within 30 days, the Selectmen are hereby authorized to cause the removal of said sign. All expenses associated with any such repair or removal shall be borne by the owner of the land upon which said sign is situated.



**SECTION 12 - Signs on Public Property:** No signs shall be placed on Town property or within the public right of way adjacent to Town property unless that sign qualifies as an exempt sign under Section 4 of this Ordinance. The Selectmen shall immediately remove from public property any unauthorized sign which does not comply with the terms of this ordinance.

**SECTION 13 - Abandoned Signs:** Abandoned signs are prohibited, and shall be removed by the land owner immediately. The advertisement of any subsequent business, product or service shall be restricted to signs which comply with the terms of this article.

**SECTION 14 - Non-Conforming Signs:** Signs legally in existence at the time of installation that do not conform to the standards set forth in this ordinance shall not be altered, enlarged, moved, or replaced, except in a manner that would bring the sign into conformance with the terms of this article, provided, however, nothing herein shall prevent any change in the message portion of any non-conforming sign.

**SECTION 15 - Sign Permit Expiration:** If the work authorized under a sign permit has not been completed within six months after the date of issuance, said permit shall become null and void.

**Section 16 – Compliance with Other Laws:** Signs must comply with all applicable state laws and regulations, including but not limited to RSA 664:17.

# Article X - *Sexually Oriented Businesses*

## **SECTION 1 - The Purpose & Intent** of this article is:

**A** - to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses;

**B** - to protect public health, safety and general welfare; and

**C** - to prevent the blight and deterioration which generally accompanies and is brought about by the concentration of sexually oriented businesses.

**D** - to mitigate the secondary effects of sexually oriented businesses, effects which were cited by the Newington Planning Board in its *Findings of Fact* dated August 5, 1993.

It is not the intent of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market, nor is it the intent of this article to condone or legitimize the distribution of obscene material.

**SECTION 2 - Zoning District:** Sexually oriented businesses are only permitted in the Commercial (C) Zone.

**SECTION 3 - Buffers:** Sexually oriented businesses shall **not** be permitted in or within 400 feet of a church, 500 feet of a school, or 1,000 feet of a residence, another sexually oriented business, or a sexually oriented business for which a building permit has been applied for.

**SECTION 4 - Other Prohibited Locations:** Sexually oriented businesses shall **not** be permitted in enclosed shopping malls or any establishment patronized by minors.

**SECTION 5 - The Measure of Distance** between any sexually oriented business and other named point of reference shall be measured in a straight line.

**SECTION 6 - Free-Standing Structures:** Sexually oriented businesses shall only be permitted in single use, free-standing structures. In no instance shall sexually oriented business share premises, facilities or buildings with businesses which are not sexually oriented.

**SECTION 7 - Site Plan Approval** by the Newington Planning Board shall be a pre-requisite for the establishment of a sexually oriented business. The Planning Board may impose reasonable restrictions relative to buffers, outdoor lighting, signs, parking, egress and ingress, pedestrian movement, landscaping, building aesthetics, and measures to ensure that displays of merchandise conform with NH RSA 571-B.

**SECTION 8 - Public Nuisances:** Violation of the use provisions of this ordinance is declared to be a public nuisance per se, which shall be abated by the Town of Newington by way of civil abatement procedures.

**SECTION 9 - Limiting Clause:** Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation or maintenance of any business, building or use which violates any Town of Newington ordinance or statute of the State of New Hampshire relative to public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

**SECTION 10 - Severability:** If any section, subsection, sentence, clause, phrase or any portion of this article is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The legislative body of the Town of Newington hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.



# ARTICLE XI - *Telecommunication Facilities*

**SECTION 1 - Signs:** Telecommunication towers shall not contain signs or graphic representation of any kind.

**SECTION 2 - Evidence that Co-Location is not Feasible:** If a new tower is being proposed, the applicant shall submit evidence which is satisfactory to the Planning Board, that no existing structure can accommodate the applicant's antenna(s).

**SECTION 3 - Cooperation:** An applicant proposing to build a new tower shall submit a binding agreement which provides for the maximum allowance of antenna co-location on the new structure. This agreement shall obligate the applicant to supply antenna co-location for reasonable fees and costs to other telecommunications providers. Failure to provide an agreement that is satisfactory to the Planning Board is grounds for denial.

**SECTION 4 - A Bond** shall be submitted by the applicant to cover the costs of tower removal in the case of abandonment. The applicant shall submit a written agreement, the terms of which are to be satisfactory to the Planning Board, which governs the bond.

**SECTION 5 - Abandoned Telecommunications Facilities** are those which have not operated for a period of twelve consecutive months. In such a case, the Town shall be authorized to execute the security, and cause the tower to be removed.

## ARTICLE XII— *Trailers & Mobile Storage Containers*

The following conditions must be met for trailers, mobile storage containers, and mobile towers in the Office and Commercial Zones:

**SECTION 1 – Permit Required:** The property owner shall obtain a permit for all trailers, mobile storage containers or mobile towers on-site longer than ten business days. The permit must be posted in plain view on the trailer/container/tower. In the case of a Town/State declared emergency, a tower permit is required no later than two days after the erection of the tower.

**SECTION 2 – Application:** Property owners shall apply to the Building Inspector for a permit. Owners must attach the appropriate fee and a sketch or plan showing the proposed location with respect to setbacks, easements, roads, and parking areas. The Building Inspector will coordinate a review by the Fire Chief.

**SECTION 3 – Duration:** The use of storage trailers/containers/towers will be permitted on a temporary basis limited to no more than 90 days. Trailers/storage containers/towers shall be removed once the permit expires.

**EXEMPTIONS:** (subject to Planning Board approval)

- A. The use of trailers for storage or temporary office space may be permitted for the duration of the construction, expansion, or repair of a permanent business.
- B. The use of trailers/containers to store *recycled* materials (i.e. tires, pallets, etc) may be permitted on renewable basis.

**SECTION 4 – Number & Location:** The placement of more than two (2) trailers/containers/towers on a lot will require site plan review by the Planning Board. No trailer/container/tower shall be situated in such a way as to obstruct safe sight distance, fire lanes, or setbacks.

**SECTION 5 – Limitation on Occupancy:** Occupancy of trailers for temporary office space is limited to businesses undergoing initial construction, expansion, or repair of a permanent place of business. The Building Inspector shall approve all temporary utility connections to occupied trailers.

**SECTION 6 – Storage of Material:** Storage trailers/containers/towers shall be locked at all times when an attendant is not present. The outside storage of materials beneath, above, or around a trailer/container/tower is prohibited.

## Article XIII— *Home Occupations & Home Businesses*

The intent of this article is to permit home occupations and home businesses to function in a manner that has no noticeable impact on the quality and character of Newington's residential district.

**SECTION 1 - Home Occupations** may be permitted in the Residential Zone only if they meet all of the following conditions:

- A) Home occupations shall be performed only by the resident(s) of the domicile. There shall be no outside employees.
- B) Home occupations shall have no impact on the surrounding residential neighborhood.
- C) A home occupation may only be conducted within a residence or pre-existing accessory building.
- D) There shall be no display of goods, wares or storage of materials visible from any public way, shoreline or abutting residences.
- E) Signs shall meet the requirements of the Newington Zoning Ordinance.
- F) No commercial vehicles related to said home occupation shall be stored on the premises.
- G) Parking generated by the home occupation shall be located off the street.
- H) The building or premises containing the home occupation shall not be detrimental to the residential character of the neighborhood due to its exterior appearance. There shall be no emission of odor, smoke, dust, vibration, noise or detectable tones.
- I) No equipment or process shall be used that creates visual or audible interference in any cell phone, wireless LAN, radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.
- J) Bandwidth consumption or denial of service to the publicly accessed information infrastructure (coaxial, fiber, wired or wireless) must not be perceptible at the lot line at a higher level than is customary in a residential neighborhood.
- K) Water consumption shall be no more than is normal in a residential neighborhood.
- L) On-site storage of hazardous materials other than small quantities of products that are intended for normal household use shall be subject to approval by the Newington Fire Chief.



**SECTION 2 - Permitted Home Occupations:** The following are permitted, subject to the conditions specified in Section 1 above: engineer, consultant, advisor, surveyor, sales representative, programmer, systems analyst, computer operator, artist, illustrator, graphic artist, draftsman, photographer, writer, architect, seamstress, decorator, insurance agent, real estate agent, and any similar use, provided that the Planning Board, after a public hearing, finds that all of the conditions in Section 1 are met

**SECTION 3 - Home Businesses** may be permitted in the Residential Zone only if they meet all of the following conditions:

- A) Home businesses shall have no discernable impact on the surrounding residential neighborhood
- B) Prior to the commencement of operations, home businesses must receive a Conditional Use Permit and Site Plan approval from the Planning Board.
- C) Before granting a Conditional Use Permit, the Planning Board must determine that the proposed structure(s), location, and size of the parcel are of a suitable scale, appearance, and character that are compatible with the surrounding neighborhood. The structure(s) must maintain the appearance of a residence.
- D) The principal operator must reside on the premises.
- E) No more than one (1) home business may be established on a property.
- F) No more than fifty percent (50%) of floor space of buildings on the premises can be devoted to such use.
- G) The home business may be conducted in a pre-existing accessory building which may utilize up to one hundred percent (100%) of said building's floor area.
- H) There shall be no display of goods, wares, or storage of materials visible from the public way or shoreline or abutting residences. Outdoor storage of materials or equipment is not permitted unless specifically approved by the Planning Board. Outdoor storage:
  - a. Shall be at least fifty (50) feet from all lot lines
  - b. Shall be screened with fencing or a vegetative buffer.
- I) Signs shall meet the requirements of the Newington Zoning Ordinance.

- J) A limited number of commercial vehicles related to the home business may be stored on the premises. The number and size of the commercial vehicles is subject to approval by the Planning Board.
- K) Customer parking generated by the home business shall be off the street, and the vehicles shall be subject to the zoning setbacks for structures. A total of 4 customer parking spaces are permitted on conforming lots. The number of parking spaces for non-conforming lots shall be determined by the Planning Board.
- L) The building or premises containing the home business shall not be detrimental to the residential character of the neighborhood due to its exterior appearance. There shall be no emission of odor, smoke, dust, vibration, noise or detectable tones.
- M) No equipment or process shall be used that creates visual or audible interference in any cell phone, wireless LAN, radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.
- N) Bandwidth consumption or denial of service to the publicly accessed information infrastructure (coaxial, fiber, wired or wireless) must not be perceptible at the lot line at a higher level than is customary in a residential neighborhood.
- O) Water consumption shall be no more than is normal in a residential neighborhood.
- P) On-site storage of hazardous materials other than small quantities of products that are intended for normal household use shall be subject to approval by the Newington Fire Chief.
- Q) A certificate of occupancy is required prior to the commencement of business operations.

**SECTION 4 - Permitted Home Businesses:** The following are permitted subject to the conditions specified in Section 3 above: light distribution, painter, architect, plumber, carpenter, electrician, building contractor, hair dresser, landscaper, all home occupations listed in Section 2 above, and any similar use, provided that the Planning Board, after a public hearing, finds that all of the conditions in Section 3 are satisfied.

## Article XIV - *Lighting & Illumination*

**SECTION 1 – Purpose:** This article is intended to eliminate problems of glare, minimize light trespass and obtrusive light created by improperly designed and installed outdoor lighting. Further purposes are to enhance and protect the quality of the New Hampshire night sky, Newington's rural character, and conserve energy and resources. These concerns are balanced while maintaining safety, security and productivity by establishing limits for the area that certain kinds of outdoor-lighting fixtures can illuminate and by limiting the total allowable illumination in the Town of Newington.

**SECTION 2 – Prohibitions:** This section applies to all lighting within the Town of Newington on any site except for legal non-conforming uses and temporary or emergency lighting.

**A - Mercury Vapor Lamps Fixtures and Lamps.** The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.

**B - Laser Source Light.** The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.

**C - Searchlights.** The operation of searchlights for advertising purposes is prohibited.

**D - Neon or Tubular Gas.** Neon or tubular gas lighting shall be limited to signage use and must be located within the exterior dimension of the sign as approved under Article XI of this ordinance. Neon or tubular gas lighting as architectural accents is prohibited.

**E - Pulsating, flashing, rotating, oscillating, or attention getting lights.** Pulsating, flashing, rotating, oscillating, or other type of lighting intended as an attention getting device shall be prohibited. Oscillating lighting is lighting that changes intensity or color in less than 30 seconds.

**SECTION 3 - Residential Lighting:** These provisions are intended to prevent private and public nuisances and protect property values. This section applies to existing and proposed single-family and duplex residential uses.

**A - Spot lights, floodlights and other bright security lighting** shall be limited in such a fashion as to not direct light onto neighboring property.

**B - Accent lighting, low wattage seasonal lighting and other fixtures commonly associated with residential uses** are not intended to be prohibited by this ordinance.

**SECTION 4 - Non-residential:** These provisions are intended to provide for more comprehensive lighting regulations due to potential negative impact on a greater number of residents and the public from inappropriate lighting installation or fixtures. In addition, it is the intent of these restrictions to prevent lighting conflicts and competing lighting installations - particularly in the commercial, office and industrial districts of the Town of Newington. This section applies to non-residential uses. The Planning Board shall adopt regulations as part of the Site Plan Review Regulations that implement the purpose and intent of this ordinance.



**A** - A Building Permit shall be required prior to the installation of any new fixtures on existing non-residential uses. If the original Site Plan Approval granted by the Planning Board specified, in detail, the type and nature of lighting, any increase or change in lighting that may have an increased impact on the site shall be referred to the Planning Board for Site Plan Review. The Building Official shall approve a permit for other installations upon a finding that the fixtures comply with the following general lighting requirements.

**B** - Spotlights, flood lights, and other bright security lighting shall be limited in such a fashion as to not direct light onto neighboring property. Security lighting using motion detection switches are encouraged, but continual lighting must be angled or shielded in such a fashion as to not produce glare onto neighboring property, particularly dwelling units.

**C** - General Lighting Requirements:

- (1) All lighting in the Town of Newington is required to have full-cutoff shielding, except for that portion of lighting installation that is consistent with the Historic District.
- (2) The new installation of up-lighting, by any method, is limited to the use of upward landscape or flagpole lighting, provided the lighting does not interfere with the safe operation of aircraft or spill onto neighboring properties or public ways.
- (3) Non-cutoff wallpack type fixtures are prohibited.
- (4) Existing lighting sources that do not present a health and safety issue with respect to glare on public ways or nuisance as a result of off-site illumination shall be exempt from the provisions of this ordinance.

**D** - New fixtures accompanying establishment of new uses or change of use that requires Site Plan Review shall have lighting plans approved as part of the Site Plan Review process.

**SECTION 5 - Grandfathering of Non-conforming Lighting:** Any lighting that replaces a grandfathered lighting, or that is moved, must meet the standards of this ordinance. Non-conforming lighting for advertising signs or architectural accents is grandfathered only for a period of ten years and no later than January 1, 2017. Grandfathered lighting that directs light toward streets or parking lots that cause disability glare to motorists or cyclists shall be either shielded or re-directed within 90-days of notification so that the lighting does not cause a potential hazard to motorists or cyclists.

**SECTION 6 – Exceptions:** All temporary lighting required for construction projects, related to road construction and repair, installation of sewer and water facilities, and other public infrastructure, all temporary emergency lighting needed by the police and fire departments or other emergency services, as well as vehicular luminaries, all hazard warning lights required by Federal regulatory agencies, and seasonal and decorative lighting displays using multiple low wattage bulbs.

# Article XV- Renewable Energy Systems

## A. Small Wind Energy Systems

**SECTION 1 – Purpose:** This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

## SECTION 2 – Procedure for Review:

**A - Location:** Small wind energy systems and met towers are an accessory use that is permitted in all zoning districts, except in the Residential District "R" zone.

**B - Building Permit:** No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Meteorological (Met) towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

**C - Application:** Applications submitted to the building inspector shall contain a site plan with the following information:

- i) Property lines and physical dimensions of the applicant's property.
- ii) Location, dimensions, and types of existing major structures on the property.
- iii) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
- iv) Tower foundation blueprints or drawings.
- v) Tower blueprints or drawings.
- vi) Setback requirements as outlined in this ordinance.
- vii) The right-of-way of any public road that is contiguous with the property.
- viii) Any overhead utility lines.



- ix) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- x) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- xi) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- xii) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- xiii) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- xiv) List of abutters to the applicant's property.

**D - Abutter and Regional Notification:** In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

**SECTION 3 – Standards:** The building inspector shall evaluate the application for compliance with the following standards;

**A - Setbacks:** The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

- i) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- ii) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

Minimum Setback Requirements Indicated as a % of Tower Height			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	150%	110%	150%

**B - Tower:** The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.

**C – The Sound Level** of the small wind energy system shall not be discernible at the property line.

**D - Shadow Flicker:** Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

**E - Signs:** All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

**F - Code Compliance:** The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.

**G - Aviation:** The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

**H - Visual Impacts:** It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

- i) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground.
- ii) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment.
- iii) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

**I - Approved Wind Generators:** The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.

**J - Utility Connection:** If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

**K - Access:** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

**L - Clearing:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.



**M - Impact on Wildlife:** Only wind energy system models that have a minimal negative impact on birds, said impact as determined by the Newington Planning Board, shall be permitted.

#### **SECTION 4 – Abandonment:**

**A – Notification:** At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

**B – Removal:** Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. “Physically remove” shall include, but not be limited to:

- i) Removal of the wind generator and tower and related above-grade structures.
- iii) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

**C – Failure to Notify:** In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

**D – Legal Action:** If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner’s sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner’s expense.

**SECTION 5 – Violation:** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

**SECTION 6 – Penalties:** Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676.

## **B. Solar Energy Systems**

- **SECTION 1 – Purposes:** New Hampshire permits the regulation of solar energy systems by municipalities and supports solar energy system usage by RSA 672:1. Newington recognizes the importance of solar energy systems and the need to balance state solar energy regulations with the wishes of the community to retain the rural character and small-town feel. A solar cooperative system is not allowed. The following restrictions apply to on ground-mount and pole mount solar energy systems:

### **Section 2 – Procedure for Review:**

**A – Location:** This provision applies only to the Residential District “R”; If a landowner proposes a solar energy system in a district other than the Residential District, a site plan review application would be required.

**B – Building Permit:** A ground-mount or pole mount solar energy system is an accessory use and a homeowner shall apply for a building permit for such a system. A building or carport roof mounted solar system shall only require a building permit issued by the building inspector.

**C – Application:** Applications submitted to the Building Inspector shall contain a site plan with the following information:

- i) The size of the proposed solar system is directly related to the amount of electricity required by the individual residence.
- ii) Ground-mount and pole-mount systems shall be located in inconspicuous locations, such as the side and rear yards, low to the ground and screened to limit visibility.

- iii) Ground-mount and pole-mount solar systems shall have a reasonable visual buffer providing screening along public ways and from abutting views.
- iv) Ground-mount and pole-mount solar systems shall comply with building setback requirements from lot lines for the entire system – including the panels.
- v) Ground-mount and pole-mount solar systems lighting shall be minimal, limited to access and safety, downcast and shielded from abutting properties

**Decommissioning**

Ground-mount and pole-mount solar systems shall be deemed to be abandoned if operations have discontinued for more than six (6) months without written consent of the municipality (such as for reasons beyond the control of the owner). An abandoned system shall be removed and the site restored within six (6) months of abandonment.



# ARTICLE XVI - *Administration*

**SECTION 1 - Zoning Enforcement:** The Board of Selectmen are responsible for the proper enforcement of the Newington Zoning Ordinance. The Board of Selectmen have delegated the day to day responsibilities for enforcement to the Town's Building Inspector. The Town's Building Inspector shall be the responsible local official regarding the enforcement of the Town of Newington Zoning Ordinance as specified in NH RSA 676:17-a. In discharging such duties, the Town's Building Inspector will consult with the Town Planner when necessary.

**SECTION 2 - Building Permit Required:** No building or structure shall be erected, added to, or moved, until a permit has been issued by the Building Inspector. The Town's Building Inspector shall have the authority to require a certified foundation plan and a certified plot plan, when in his opinion, such documentation is necessary. The Building Inspector may exercise this authority when there is a concern regarding the building's proximity to side, rear and front setbacks, wetlands, floodplain, shoreline and other sensitive areas.

**SECTION 3 - Application for Building Permit:** The applicant for a Building Permit shall submit accurate construction plans at a suitable scale. Industrial plans shall be drawn by a professional architect or professional engineer, and shall include:

- A - The shape, size and location of the lot to be built upon; and
- B - The shape, size, height and location upon the lot of the buildings to be erected, altered or removed; and
- C - Any building already on the lot; and
- D - Setback lines of buildings on adjoining lots; and
- E - Any other information needed by the Building Inspector or Board of Select-men to determine whether the provisions of this ordinance are being observed.

The applicant for a building permit shall complete the building within eighteen (18) months after the issuance of the building permit. An extension for up to one (1) year may be granted for a good cause. This amendment shall apply retrospectively to building permits that have been issued for work that has not been completed.

If the application conforms with the provisions of this ordinance, the building codes, and other ordinances of the municipality, the permit shall be issued upon payment of the required fee. If not, the building permit shall be refused by the Building Inspector stating such refusal in writing with the cause. The issuance or refusal of a permit shall be within 15 days of the submission of the application with all necessary information to the Building Inspector.

No permit shall be issued for construction of storage facilities for any petroleum products unless such construction complies with the Rules and Regulations of the State Board of Fire Control. The Newington Fire Chief and/or State Fire Marshall shall inspect such construction to determine that said regulations are being adhered to.

If no substantial progress of construction has been made in six months beginning with the date the permit is issued, the permit becomes invalid. The Building Inspector may renew the permit. A renewal fee in the amount of the original fee is required to be paid by the applicant before the permit is renewed.

#### **SECTION 4 - Penalties for Violation:**

Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person; and shall be subject to a civil penalty of \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense. See NH RSA 676:17, I.

**SECTION 5 - Repeal of conflicting ordinances:** Any existing zoning ordinances or such parts thereof as may be inconsistent herewith are repealed.

#### **SECTION 6 – Zoning Board of Adjustment:**

The Zoning Board of Adjustment shall consist of five members appointed by the Board of Selectmen with a term of three years. Terms shall begin in March. The Board of Selectmen shall also appoint up to five alternates. Alternates shall serve in the absence of a regular member. The Zoning Board of Adjustment shall have the following powers:

A. Administrative appeals. Hear and decide appeals if it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.



1. In exercising these powers, the Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order or decision as ought to be made and, to that end, shall have all the powers of the administrative official from whom the appeal is taken.

2. The concurring vote of three members of the Board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass.

B. Variances. Authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as provided for in RSA 674:33, I(b).

C. Special exceptions.

1. Authorize special exceptions to the terms of the ordinance for uses specifically identified in the Table of Uses. The Board may grant such special exceptions in appropriate cases and subject to appropriate conditions so as to be in harmony with the general purpose and intent of the Zoning Ordinance. In granting a special exception, the Board's shall apply the following standards:

1. No detriment to property values in the vicinity of the proposed development will result on account of the location or scale of buildings, structures, parking areas, or other access points; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or the unsightly outdoor storage of equipment, vehicles, or other materials.
2. No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.
3. No creation of a traffic safety hazard or substantial traffic congestion in the vicinity of the proposed development.
4. No excessive demand on municipal services and facilities, including but not limited to waste disposal, police and fire protection, and schools.
5. The proposed use will not result in the degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection.
6. Adequate and appropriate facilities will be provided for the intended use.

D. Waivers of dimensional requirements. Authorize upon appeal in specific cases equitable waivers of dimensional requirements as provided for in RSA 674:33-a.



E. Variances for persons with disabilities. The Zoning Board of Adjustment may grant a variance from the terms of the Zoning Ordinance pursuant to RSA 674:33, V, without finding a hardship arising from the condition of the property subject to the ordinance, when reasonable accommodations are necessary to allow a person with a recognized physical disability to reside in or regularly use the premises. In granting a variance pursuant to RSA 674:33, V, the Zoning Board may provide that the variance shall survive only so long as the particular person has a continuing need to use the premises.

**SECTION 6 - Validity:** Should any section or part of a section or any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 7 - Effective Date:** This Ordinance shall take effect upon its passage.

# ARTICLE XVII - *Floodplain Management*

## **Item I – Purpose**

1. Certain areas of the Town of Newington, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Newington, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in the Floodplain Management Ordinance.
2. This Ordinance established a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Newington, New Hampshire.

## **Item II – Establishment**

1. This ordinance, adopted pursuant to the authority of RSA 674:16, shall be known as the Town of Newington Floodplain Management Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Newington Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law.
2. 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, N.H." dated May 17, 2005, together with the associated Flood Insurance Rate Maps dated May 17, 2005, which are declared to be a part of this ordinance and are hereby incorporated by reference, and any subsequent revisions thereto.

## **Item III – Greater Restriction**

If any provision 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.

## **Item IV – Enforcement**

It shall be the duty of the Building Inspector to enforce and administer the provisions of this ordinance in accordance with RSA 676.

**Item V - Definition of Terms:** The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Newington.

1. "Area of Special Flood Hazard" is the land in the floodplain within the Town of Newington subject to a one-percent or greater possibility of flooding in any given year. The area is designated as **Zone A and Zone AE on the FIRM**.

2. "Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.

3. "Base flood elevation" means the water surface elevation having a one percent possibility of being equaled or exceeded in any given year.

4. "Basement" means any area of a building having its floor subgrade on all sides.

5. "Building" - see "structure".

6. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation, or storage of equipment or materials.

7. "FEMA " means the Federal Emergency Management Agency.

8. "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.

9. "Flood Insurance Study" means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

10. "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 Newington.

11. "Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").



12. "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.

13. "Floodway" - see "Regulatory Floodway".

14. "Functionally dependent use" means a use that 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.

15. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

16. "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 historical 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:

i) by an approved state program as determined by the Secretary of the Interior, or

ii) directly by the Secretary of the Interior in states without approved programs.

17. "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 building's 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.

18. "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 consecutive 180 days. This includes manufactured homes located in a manufactured home park or subdivision.

19. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

20. "Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

21. "New construction" means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

22. "Recreational Vehicle" is defined as:

- i) built on a single chassis;
- ii) 400 square feet or less when measured at the largest horizontal projection;
- iii) designed to be self-propelled or permanently towable by a light duty truck; and
- iv) designed primarily **not** for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

23. "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation more than a designated height.

24. "Special flood hazard area" (See "Area of Special Flood Hazard").

25. "Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.



26. "Start of Construction" includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

27. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

28. "Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

1. the appraised value prior to the start of the initial repair or improvement, or
2. 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 that have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

29. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required under this ordinance is presumed to be in violation until such time as that documentation is provided.

30. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.



**Item VI - Permits:**

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

**Item VII - 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.

**Item VIII - 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.

**Item IX - 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 mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed.
- c. any certification of floodproofing.

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

**Item X - 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.

**Item XI - 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 notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

4. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### **Item XII - Special Flood Hazard Areas:**

1. In special flood hazard areas the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:

a. In Zone AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying Flood Insurance Rate Map (FIRM).

b. In Zone A the Building Inspector shall obtain, review, and reasonably utilize any base 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).

c. In Zone A where the base flood elevation is not available, the base flood elevation shall be at least two feet above the highest adjacent grade.

2. The Building Inspector's base flood elevation determination will be used as criteria for requiring in zones A and AE, that:

a. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation.

b. All new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood elevation; **or**, together with attendant utility and sanitary facilities, shall:

(i) be floodproofed so that below the 100-year base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

(iii) 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 base 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.

d. All recreational vehicles placed on sites within Zones A and AE shall either:

(i) be on the site for fewer than 180 consecutive days;

(ii) be fully licensed and ready for highway use; or

(iii) meet all standards of Item VI of this ordinance and the elevation and anchoring requirements for "manufactured homes" in Item XII(2)(c) of this ordinance.

e. 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:

(i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

(ii) the area is not a basement;

(iii) 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 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.

### **Item XIII - Variances and Appeals:**

1. 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.

2. 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 that:
  - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
  - a. The issuance of a variance to construct below the base flood level will result in increase premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - b. 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.

4. The community shall:
  - a. Maintain a record of all variance actions, including their justification for their issuance, and
  - b. Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

# ARTICLE XVIII – *Workforce Housing Overlay District*

**Section 1. Authority.** This Article is adopted in accordance with RSA 674:21, Innovative Land Use Control, and RSA 675:1, II. This section of the Zoning Ordinance authorizes the Planning Board to grant a conditional use permit for Workforce Housing within the Workforce Housing Overlay Zoning District. The Planning Board shall be solely responsible for the interpretation and administration of this section, including the granting of all Conditional Use Permits relative thereto. Any decision made by the Planning Board under this Article may be appealed directly to the Superior Court as is specified in RSA 676:5, III and RSA 677:15.

**Section 2. Purpose and Intent of this article is to:**

- A. Provide for “workforce housing” as that term is defined in RSA 674:58;
- B. To allow for such workforce housing in multi-family dwellings at a unit density, served by municipal water and sewer, that it will support the construction of such housing, in an area of the Town that is in close proximity to the Town’s Residential Zoning District.

**Section 3. The Workforce Housing Overlay Zoning District shall apply to the following lots in the Office Zoning District on the West side of the Spaulding Turnpike:** Tax map lot 12-15, 12-16, and 12-13. This area is adjacent to existing rural residential neighborhoods and has existing public water, sewer, and natural gas as well as access for emergency services. While Newington recognizes the need to support housing affordable for a workforce, such growth must be proportional to the town's small number of residents to not undermine the fundamental principles of sound growth adopted and followed in the town's Master Plans since the 1960's. All uses permitted in the underlying zoning district shall continue to be allowed uses.

**Section 4. Conditional Use Permit Criteria.**

The following general criteria shall be satisfied in order for the Planning Board to grant a conditional use permit:

- A. Granting the conditional use permit application would meet some public need.
- B. Granting the conditional use permit is in the public interest.
- C. The property in question is reasonably suited for the proposed use.
- D. The project makes appropriate provision for access to the property and for pedestrian safety to ensure public safety and avoid traffic congestion.



- E. The project shall be served by municipal water and sewer.

### **Section 5. Criteria for Evaluating Conditional Use Permit Applications.**

The following specific criteria shall be used by the Planning Board in the evaluation of Workforce Housing Conditional Use Permit applications.

- A. The design of the site, to the extent practicable, preserves natural resources, open space, does not create a hazard to surface or underwater water resources, and minimizes non-point pollution.
- B. The application demonstrates that the project for which the Conditional Use Permit is sought does not impact the health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations and Subdivision Regulations, as applicable to the proposed project.
- C. The applicant has demonstrated that an alternative design for which dimensional relief is sought better achieves the objectives and characteristics of the Overlay District, while not diminishing surrounding property values or the ability of nearby parcels to develop in according with the applicable zoning district.
- D. At least 50% of the Workforce Dwelling Units shall have at least 2 bedrooms.
- E. The project shall be designed to provide a minimum of 75% of the units meeting the definition of “workforce housing” per RSA 674:58; no more than 25% of the project units shall be market rate housing units.
- F. All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any “market rate” units included in the development.
- G. All workforce housing units must be completed and made available for sale or rental before (the larger of) the final 10% or the final 3 market-rate units are approved for occupancy within the development.
- H. Permitted multi-family density shall be dictated by the amount of available land area after deducting the requisite Open Space.
- I. The number of dwelling units in each building shall be determined by current fire, safety and building codes.

J. Dimensional requirements:

1. Minimum structure setbacks from the perimeter of the development lot shall be as follows: front-40 feet; side-35 feet; rear-30 feet.
2. The maximum building height shall be flexible, based on the recommendations of the building inspector and fire chief. No building shall exceed 3 stories.
3. The development shall have a minimum frontage on a state highway or a Town road of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty-foot (50') rights-of-way serving as access to the development lot.
4. The dimensional and use standards set forth in this Article shall supersede the underlying zoning districts upon the granting of a conditional use permit.

K. Open Space. No less than the 40% of the area calculated below shall be retained as unoccupied space free of buildings, parking and pavement, including street access, drives and walks paved with impervious materials (but such unoccupied open space may include so-called nature walk areas and other recreational uses approved by the Planning Board). Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.

L. Road design. Internal roads shall conform to the Town standards for roads in new subdivisions as required by the most recent version of the Town Subdivision Regulations.

M. Perimeter buffer. A perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, trees, fences or walls, as approved by the Planning Board.

**Section 6. Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing.**

- A. The Planning Board may, through the granting of a Conditional Use Permit, adjust the standards of any dimensional requirement for workforce housing (for example, building height, setbacks, frontage, roads and driveways, unit density, open space or parking). Such adjustments shall not require a variance.
- B. The conditional use permit shall set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered a condition of approval. All representations made by the applicant or its representatives during the public hearing process shall be considered to be conditions of approval if such representations are accepted or otherwise relied upon by the Planning Board. Such site or subdivision plans submitted by the applicant and approved by the Planning Board, as applicable, shall be signed by the Chairman of the Planning Board.

**Section 7. Parking.**

- A. Parking areas shall be designed in accordance with the parking requirements set forth in the zoning ordinance or site plan regulations, as applicable.
- B. No parking shall be located between the front lot line and the front plane of the building(s) closest to the existing Town or state road that provides access to the property.

**Section 8. Conditions of Approval.**

- A. Pursuant to RSA 674:21, II, the Planning Board is hereby authorized to grant Conditional Use Permits for Workforce Housing development projects as provided in this Article. In granting such permits, the Board may attach reasonable conditions, or waive or modify any of the requirements of this section, if specific circumstances relative to the proposal indicates that a waiver will properly carry out the spirit and intent of the ordinance.



# Building Code

1. The inspector of buildings shall be the administrative officer of this ordinance. He shall receive applications and fees for the erection or alteration of buildings and electrical wiring thereof as provided in this ordinance, shall keep complete records of all applications and his action on the applications; promptly survey and inspect all buildings, alterations or uses proposed; accept and deposit with the town Treasurer all fees collected by him under this ordinance, and may issue permits for erection, alteration or remodeling of all buildings, if in his opinion the proposal complies with the law of the State, this ordinance and other town ordinances and by-laws, provided that in any instance where license or permit fees for uses are required his permit shall constitute only an approval on which the proper authority may issue a license on payment of required fees; any other duties prescribed by law; shall act in cooperation with the Fire Chief in any matter in which their duties as prescribed by law coincide or conflict; and shall take such action in the enforcement of this ordinance as may be directed by the Selectmen.
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.
3. No application for a permit required by this ordinance shall receive action by the Building Inspector unless made in writing. All applications for permit to build, construct, alter or remodel a building, shall be accompanied by a sketch or plan of the proposed building or alterations, and a statement of its intended use when built, constructed or remodeled. A fee, as established in this ordinance, shall be paid for all permits issued. Proposed structures in excess of 2,000 square feet shall require the submission of plans stamped by a professional architect or professional engineer.
4. Upon receiving such application the building inspector shall promptly take such action as may be indicated in the way of investigation or public hearings, to acquaint himself with the merits of the application. He may without judging the application on its merits, refer the application to the Board of Adjustment. If, however, he finds the proposed building, alteration, or use of building to conform with the law and this ordinance he may at once issue the permit in writing over his signature. If he finds the proposal in any conflict with the law or this ordinance he shall fix whatever restrictions or conditions on the proposed construction as may be in his best judgment, right and proper, of for reasonable cause to refuse the permit.
5. No building or structure shall be erected, altered, rebuilt, substantially repaired or remodeled unless in compliance with the Newington Building Code and the NH State Building Code.

**6 - Fees:** The Board of Selectmen shall establish and maintain a schedule of fees for building permits and all related permits.

**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.

**8 - 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 unattended, "or a swimming pool with a power safety cover complying with ASTM F 1346 as an authorized exception".

**9 - Septic Systems:** Prior to the issuance of a building permit for the expansion of a residential structure, the building's owner shall submit evidence, which is satisfactory to the Building Inspector, demonstrating that the on-site septic system will adequately support the expanded residence.

**10 - Sprinklers:** All buildings that are used primarily for commercial, industrial or office use shall have an automatic sprinkler system. The following are exempted from this requirement:

A) Non-combustible construction used to store non-combustible material and that is separated from other structures by 50 feet or more; and

B) Structures that are occupied by less than 5 people per day *and* less than 4 hours per day.

**11 -** The Newington Board of Adjustment shall have the power, upon an appeal filed with it by any person aggrieved by a decision of the Building Inspector dealing with the Building Code, to vary the application of any provision of the Building Code to any particular case when, in its opinion, the enforcement of the Building Code would do manifest injustice and would be contrary to the spirit and purpose of the Building Code and the public interest.

**12 - Amendments:** This ordinance may be amended by a majority vote of any legal Town Meeting when such amendment is published in the warrant calling for the meeting.

**13 - Enforcement:** Upon any well-founded information that this ordinance is being violated, the Selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of the above regulations shall be punished upon conviction by a fine not exceeding \$100 for each day of each violation.

**14 -** This Ordinance shall take effect upon its passage.

**15 - Conflicting Provisions.** Whenever the regulations made under the authority hereof differ from those described by any statute, ordinance, or other regulation, that provision which imposes the greater restriction, or the higher standard shall govern.

**16 - Validity:** If any section, clause, provision, portion or phrase of this ordinance shall be held to be invalid or unconstitutional by any court or competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this ordinance.





# Subdivision Regulations

**SECTION 1 - Authority and Title:** Pursuant to the authority vested in the Newington Planning Board by the Voters of the Town of Newington, at a Special Town Meeting held January 25, 1952, and duly recorded with the Register of Deeds of Rockingham County, and in accordance with the provisions of Chapter 36, sections 19-29, New Hampshire Revised Statutes Annotated, 1955, as amended, the Newington Planning Board adopts the following regulations governing the subdivision of land in the Town of Newington, New Hampshire. These regulations shall be known as and may be cited as *The Town of Newington Land Subdivision Control Regulations* hereinafter referred to as *Subdivision Regulations*.

**SECTION 2 - Definitions:** Interpretations: For the purpose of these regulations and unless the contents otherwise require, the following definitions shall be used in the interpretation and construction of these regulations: Words in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "*building*" shall include "*structure*", and the word "*shall*" is mandatory and not optional.

**A - Abutter** means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purpose of receiving testimony only, and not for purposes of notification, the term *abutter* shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

**B - Board** means the Planning Board of the Town of Newington.

**C - Bond** means performance bond, irrevocable letter of credit, or other surety, the form to be selected by the Planning Board and Planning Board counsel.

**D - Comprehensive Plan or Master Plan** means any part or element of the overall plan of development adopted by the Planning Board.

**E - Engineer** means any duly designated engineer of the Town of Newington, or, if there is no such official, the planning consultant or official assigned by the Newington Planning Board.

**F - Form Factor** means the number which represents the relationship between the boundaries of a lot and its area. A small number indicates a squarish, compact lot, while a large number indicates a long and narrow, or convoluted shape. The number is calculated by squaring the perimeter of the lot, in feet, and dividing by its area, in square feet. ( $FF = P^2 / A$ )

**G - Lot** means a parcel of land occupied or intended to be occupied by a principal building and accessory buildings, or utilized for a principle use and uses accessory or incidental to the operation thereof, together with such open spaces as required by the zoning ordinance and having frontage on a town accepted street or road.

**H - Plan or Plat** means the map, drawing or chart prepared by a New Hampshire licensed engineer/land surveyor, on which the subdivider(s) plan of subdivision is presented to the Newington Planning Board for approval, and which if approved, shall be submitted to the Register of Deeds, Rockingham County, for recording. It includes plans for Site Review.

**I - Primary Electrical and Communication Duct System** is the portion of conduit delivering the primary power/communication trunk to the pad-mounted transformers/communication distribution pedestal.

**J - PVC** is Polyvinylchloride

**K - Secondary Electrical and Communication Duct System** is the portion of conduit that is used as feeders from the pad-mounted transformers/ communication pedestals to each facility requiring service.

**L - Street** means and includes street, avenue, boulevard, road, alley, highway, and other way exclusive of driveways serving not more than two adjacent lots.

**M - Subdivider** means an individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity (or agent thereof) that undertakes the activities governed by these regulations. Inasmuch as the subdivision plat or plan is merely a necessary means to an end of assuring a satisfactory development, the term "*subdivider*" is intended to include the term "*builder*" and "*developer*" even though the person involved in successive stages of the subdivision may vary.

**N - Subdivision** means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under these regulations.



## **SECTION 3 - Procedures on Plans (Plats)**

### **General Information**

(1) Any person proposing to subdivide land in the Town of Newington must apply to the Newington Planning Board for approval of such subdivision.

(2) The application shall conform to the specifications contained in these regulations, and to any other applicable regulations adopted by the Town.

(3) In accordance with RSA 36:27, as amended, transfer or sale of any lot in an unapproved subdivision will be null and void and subject to a penalty.

(4) To aid the applicant, Planning Board, and abutters or persons with a direct interest in the plan, it is suggested that all three stages below be utilized. However, applicants may elect to begin the process with any one of the three following stages, providing all the required data is included in the final stage.

**(a) Preliminary Consultation:** This stage is very informal for the purpose of facilitating the subsequent preparation of the plans. It may involve a rough sketch of the proposal, but not a professionally prepared plan. Only conceptual ideas may be discussed, and in general terms, such as desirability of types of development and proposals under the master plan, if any. No fees or formal public notice are required for a preliminary consultation, but such requests must be made fifteen (15) days prior to regularly scheduled meeting for discussion with the Board. This stage shall not bind either the applicant or the Board, nor shall time limits apply. More detailed discussion requires notification to abutters and the general public.

**(b) Preliminary Plan:** This stage involves a professionally prepared plan with approximate dimensions to show the proposal will meet Town regulations. Various permits, tests, and reports which will be required for the specific proposal shall be started during this stage, with direction from the Planning Board. Notification fees are required, and all requests must be made sixteen (16) days prior to a regularly scheduled meeting.

**(c) Formal Application:** This stage begins the 90-day period in which the Board either approves or disapproves the plan. The formal application form must be properly filled out, all required fees paid, and all completed engineered plans, tests, permits, and reports filed with the Town at least sixteen days (16) prior to the meeting at which the application will be accepted.

(5) The Board may make visual on site inspection of the land at any stage of the proposal. Inspection is to be at such time, when in the opinion of the Board, ground conditions are suitable for inspection.

(6) If a plan is withdrawn prior to hearing notification for the plan, no further action is required by the Board, and it will be considered terminated. One copy of any such plan(s) shall be retained for Board files.

(7) Approval of the plan by the Board shall not constitute an acceptance by the Town or the dedication of any street, highway, park or other public open space.

(8) The Board may approve the plan with such conditions as may be necessary to insure proper completion of required improvements, including performance bonds.

(9) All plans, exhibits, photographs, and drawings that are presented to the Planning Board thereafter become the property of the Town of Newington.

#### **B - Preliminary Consultation Requirements (Stage 1)**

(1) Correct Names & Addresses of owner(s) of record (and applicant, if different), and location of the proposal.

(2) A rough sketch of the site should be provided which shows the following:

a - Approximate location of proposed lot lines.

b - Approximate lot measurements and area of new lots.

c - Street(s) on which lots have frontage.

**C - Preliminary Plan - Required Exhibits and Data (Stage 2)**

**(1) Preliminary Plan sheets to include:**

- a** - Original on mylar in permanent ink.
- b** - Three (3) prints of each plan sheet (blue or black line).
- c** - Sheet size to conform to the requirements of the Registry of Deeds of Rockingham County for filing.
- d** - Scale: not more than 1" = 100'.
- e** - Proposed subdivision name or identification.
- f** - Correct names and mailing addresses of: owner(s) of Record (and applicant, if different), all abutters including those across the street or stream keyed to plan.
- g** - Name, license number, and seal of the NH licensed Land Surveyor, Civil or Sanitary Engineer, plus name and address of engineer/designer.
- h** - Date, north arrow, location map.
- i** - Topographical plan with contour lines at Two (2) foot vertical intervals. Benchmark from USGS datum.
- j** - Adequate space for the necessary endorsements by proper authorities.
- k** - Tax Map reference sheet and parcel number.

**(2)** On a separate paper, the correct names and mailing addresses of the owner(s) of record (and applicant, if different), and all abutters including those across the street or stream.



**(3) The engineered plan shall include the following information:**

**a** - Location of property lines and their approximate dimensions and bearings, boundary extensions, existing buildings, existing and proposed easements, alleys, parks, public open spaces, water courses, ponds or standing water, rock ledges, and other essential features. All abutting subdivisions' names and similar facts regarding abutting property.

**b** - Location, name and widths of existing and proposed streets and highways with their grades and profiles and the elevations of sufficient points on the property to indicate the general topography of the property. The center line of any proposed street must show on the plan. Where the preliminary plan submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system on the submitted part will be considered in the light and adjustments and connections with the street system of the part not submitted.

**c** - Existing water mains, sewers, culverts, drains and proposed connections or alternative means of providing water supply, and disposal of sewage and surface drainage.

**d** - Where the topography is such as to make difficult the inclusion of any facilities mentioned in *paragraph (c)* above, within the public area so laid out, the preliminary plan shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than Ten (10) feet in width and shall have satisfactory access to existing or proposed public way(s).

**e** - Location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication, and a copy of such deed restrictions as are intended to cover part or all of the tract.

**f** - For lots under 2 acres, show both acreage and square footage, over 2 acres, show acreage only.

**g** - The actual house number, according to proper house numbering standards. The number must be posted on the lot and must be visible from the road. House numbers may be obtained from the Building Inspector.

**(4) The topographical plan shall include the following information:**

**a** - The general topography of the proposed subdivision by means of elevations of sufficient points on the property to establish and show contour lines at vertical increments of not more than two (2) foot intervals for the entire area proposed to be subdivided, including establishment of the lowest and highest points therein.

**b** - The location of and pertinent data on sufficient test pits and percolation tests to show that the regulations in Section 4C "*Requirements for Siting Septic Systems*" can be met on each lot created by the subdivision. Information shall include at least the following:

- The location of test pits;
- Percolation test data;
- The certificate of the Planning Board member or its agent witnessing the test;
- An outline of the area reserved for leach field to correspond with test location. Leach Field to be twice the minimum size required to allow a reserve area should the first system fail. Soils information to be based on most recent soils data for the Town. Local septic system requirements must be met prior to obtaining approval from NH Department of Environmental Services. (*For local septic system requirements see Section 4C*)

**c** - Approval from NH Department of Environmental Services. Under a 1979 regulation enacted by the NH Department of Environmental Services, all construction permits for septic systems will expire four years from date of issue unless an Operational Approval has been granted or construction is imminent.

**d** - the limits of the 100' tidal buffer zone, and an accompanying list of all applicable land use restrictions therein;

**e** - the limits of the 250' shoreland protection zone, and an accompanying list of all applicable land use restrictions therein;

**f** - the limits of the 100 year flood zone as delineated by FEMA.

**g** - New Hampshire State Plane Coordinates and USGS 1983 North American Datum.

**h** - Topography is to be referenced to North American Vertical Datum of 1988 (NAVD 88).

(5) Road profiles shall include the following information:

a - Preliminary site plans for construction of all streets, sidewalks, and other improvements, including utilities. Plans shall indicate percent grade of streets, width and cross sections, plus locations and sizes of: water and sewer pipes, electric and telephone lines, storm water pipes, drains and culverts. Indicate type of pavement or surfacing of streets and subgrade thickness, as well as materials specifications thereof. See *Road Construction Specifications* for complete details.

b - Preliminary designs of any bridges or culverts which may be required.

**D - Formal Application (Stage 3)**

(1) Formal consideration of the application will not begin until the Planning Board has determined that the application is complete. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision, as per RSA 676:4(I)(b).

(2) At least sixteen (16) days prior to a regularly scheduled meeting, a properly filled out formal application must be filed with the Planning Board or its agent. One original, plus 3 copies. The following information must be included:

a - On a separate paper, the correct names and mailing addresses of the applicant and owner(s) of record (if different), and all abutters (including those across the street and stream) as indicated in Town records - to be obtained not more than 5 days before the day of filing.

b - Schedule of Fees - Subdivisions:

Lot Line Adjustment:	\$300
Minor Subdivision (3 lots or less):	\$1,000
Major Subdivision (more than 3 lots):	\$1,500 plus \$500/lot

Additional fees may be required for administrative expenses, special investigative studies, review of documents and legal, engineering and other professional services which may be required by a particular application.

All costs of notice whether mailed, posted or published, shall be paid at this time by the applicant. Failure to pay such costs will terminate further



consideration of the proposal, and the Planning Board may disapprove the plan without a Public Hearing.

**c** - The final plan(s) shall be on mylar in permanent ink and include all the requirements in final form in Section C, Preliminary Plan - Required Exhibits and Data. Original to be retained by the Board for recording. Three (3) prints of each plan sheet (blue or black line) shall be provided, in addition to all other supporting documents, permits, deeds, test data, and reports necessary for the specific proposal.

**d** - Abutters must be indicated on any plan submitted, showing their location in relation to the proposed subdivision.

**e** - The final plan(s) shall include sufficient data acceptable to the Planning Board and the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. All dimensions shall be shown to hundredths of a foot and bearings to at least half minutes. The error of closure shall not exceed a ratio of 1 to 10,000. The final plan(s) shall show the boundaries of the property and the bounds of any public or private streets and easements abutting or pertaining to the proposed subdivision in any manner.

**f** - Digitized copies of the final plan shall be submitted in .dwg and .pdf formats.

**g** - The applicant shall submit letters from applicable utilities confirming that the proposal meets their specifications. The letter shall be signed by the Director of Engineering or other person having the authority to obligate the utility to the accepted plan.

#### **E - Timing for Formal Consideration**

(1) Within thirty (30) days after submission of the completed application, in accordance with 3.D(2), the Board will begin formal consideration of the application.

(2) The Board shall act to approve or disapprove the completed application within Ninety (90) days after submission, subject to extension or waiver as provided in the following paragraph.

(3) The Planning Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for Planning Board action within the time periods specified in the above, and consent to such extension as may be mutually agreeable.

(4) When the Board approves the final plan, the Board shall transmit a copy of such approval in writing to the Register of Deeds of Rockingham County together with any conditions that may be attached thereto. A fee of \$20.00 is required for such filing.

**F - Notification:** The Planning Board shall notify the applicant, abutters, and every engineer, architect, land surveyor, landscape architect, or soil scientist whose professional seal appears on the plat submitted to the board by certified mail, return receipt requested, of the date upon which the application will be formally submitted to the Board. Notice shall be mailed at least Ten (10) days prior to formal submission. Notice to the general public shall also be given at the same time by posting in two (2) public places and/or publication in a newspaper of general circulation in the town. The notice shall include a general description of the proposal, the applicant's name, and location of the proposal. For any Public Hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of Public Hearing has been included in any prior notice, additional notice is not required, nor shall additional notice be required of an adjourned session of a hearing properly noticed, if the date, time and place of the adjourned session was made known at the prior hearing.

## **G - Public Hearings**

(1) The applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing at the Public Hearing. Other persons may testify as permitted by the Board.

(2) No application may be denied or approved without a Public Hearing on the application unless the following situations occur:

a - The subdivision consists of a minor lot line adjustment or boundary agreement that does not create a buildable lot. However, notice to the abutters is required prior to approval of the application. Any abutter may request to be heard on the application.

b - The Board has disapproved the application for the following reasons:

1) Failure of the applicant to supply information required by the regulations, including abutter's identification.

2) Failure to meet reasonable deadlines established by the Board.

3) Failure to pay costs of notice or other fees required by the Board.

In case of disapproval of any application submitted to the Board, the grounds for such disapproval shall be adequately stated upon the records of the Board.

**H - Other Fees:** No Building Permit shall be issued until all outstanding bills associated with Planning Board engineering fees are paid in full by the applicant, in accordance with NH RSA 676:41(g).

**I - Roadway Completion:** Upon completion of roadway construction:

(1) drainage infrastructure shall be cleared of all debris and sediment,

(2) comprehensive as-built plans, with all infrastructure features, shall be submitted to the Planning Board, and

(3) the Town's consulting engineer shall inspect all improvements in order to ascertain compliance with the approved plan and the as-built plan.

**SECTION 4 - General Requirements for the Subdivision of Land:** The Subdivider shall observe the following general requirements and principles of land subdivision:

**A - Land of such character that it cannot be safely used** for building purposes because of exceptional danger to health or peril from fire, flood or other menace shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, until appropriate measures have been taken by the owner or his agent to eliminate such hazards.

**B - Areas set aside for parks and playgrounds** to be dedicated or to be reserved for the common use of all property owners by covenant in the deed, whether or not required by the Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.

**C - Requirements for Siting Septic Systems** in areas not currently served by a public sewer system, each lot in a subdivision shall meet standards set forth in the NHWS&PCC publication Guide for the Design, Operation and Maintenance of Small Sewage Disposal Systems and the requirements listed below:

- 1) No test pit or percolation tests shall be performed between June 15 and September 15.
- 2) Any soil with a seasonal high-water table at or within 12 inches of the natural ground surface shall not be used for the disposal of septic tank effluent.
- 3) Any soil with a percolation rate of over 60 minutes per inch shall not be used for the disposal of septic tank effluent.
- 4) Every residential building in the Residential District shall be served by a septic system situated on the same lot as the building.

**D -** Before approval of a subdivision by the Planning Board, there shall be filed a bond by the subdivider in an amount sufficient to cover the cost of the preparation of the streets and the extension of public water and sewer lines as specified in Section 5 of these regulations. This Bond shall be approved as to form and sureties by the legal counsel of the Town of Newington, and conditioned on the completion of such improvement within five years of the date of the Bond.



**E** - The proposed subdivision shall conform to the Zoning Ordinance of the Town of Newington, Comprehensive Master Plan of the Town of Newington and other pertinent state or local laws or regulations. When the subdivider can satisfy the Board that any of these regulations should not be strictly adhered to because of topographical or other conditions peculiar to the site, a departure may be authorized without destroying the intent of such provisions.

Zoning Ordinance requirements cannot be varied except by approval by the Board of Adjustment.

Likewise, the Board may require the installation of sidewalks or other improvements necessitated by the peculiar conditions or circumstances relative to the particular subdivision. Any such departure from the usual regulations shall be stated in writing in the minutes of the Board with the reason.

**F** - There shall be filed with the Planning Board a **3-year bond to maintain the new street(s)** and utility services in an amount equal to 10% of the cost of the roadway and utility services construction. The maintenance bond shall take effect upon the release date of the construction bond.

**G** - The Planning Board reserves the right to provide against such **scattered or premature subdivision of land** as would involve danger or injury to health, safety or prosperity by reason of lack of water supply, drainage, transportation, schools, fire protection, or other public services that would necessitate excessive expenditure of public funds to supply such services (*NH RSA 674:36 IIa*).

**H** - All roadways, sidewalks, and bicycle paths shall be constructed in accordance with the applicable road construction standards attached hereto. These standards are hereby incorporated into and made a part of these regulations.

**I - Utility Hookups:** The developer of the subdivision shall extend the secondary electrical and communication duct system to each residential building in the subdivision. Ducts shall be 4" Schedule 40 PVC conduit.

## **SECTION 5 – Road Design Standards**

New streets and bicycle paths shall be graded and improved with pavement, curbs and gutters, storm drainage facilities, water mains, sanitary sewers (where applicable), street lights and signs, street trees and fire hydrants, except where waivers are granted by the Planning Board

**A. Conformance with Newington and Utility Standards:** Roadway construction, material specifications, design standards, inspection requirements, and other applicable roadway construction features and procedures shall, at a minimum, meet Newington's "Construction Specifications for Residential Roadways, as well as the standards of all utility companies with jurisdiction.

**B. The Arrangement of Streets** in a subdivision shall provide for the continuation to adjoining subdivisions in order to facilitate fire protection, movement of traffic and the construction or extension of needed utilities and public services. In the case of dead-end streets, the Planning Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic, bicycle traffic, and utilities to nearby streets or to public water bodies.

**C. Dead-end Streets:** Dead-end streets shall not exceed 1,500' in length measured from the edge of pavement of the existing road to the farthest point of the cul de sac, and shall be equipped with a turn-around at the closed end with a minimum radius of 80 feet from the center to the outside edge of the right-of-way, and a minimum radius of 68 feet to the outside edge of the pavement.

### **D. Intersections with Existing Roads:**

**1. Proximity to Other Intersections:** Local or secondary street openings onto the same side of major arterial roads shall be at least 400 feet apart.

**2. Alignment:** Intersections on opposite sides of major roads shall be aligned where possible. Where alignment is not possible, a 125-foot separation between intersecting center lines shall be established.

**E. Angle of Intersection:** Streets shall join each other so that for a distance of at least 100 feet the street from the intersection is approximately at right angles to the street it joins. No street shall intersect another street at an angle of less than 60 degrees. Street right-of-way lines at intersections shall be rounded by curves of at least 30-foot radius.

**F. Visibility at Intersections:** In order to provide adequate visibility, lots at the corner of intersecting streets shall be kept cleared of growth in excess of 3 feet high (except isolated trees), within 20 feet of the roadway pavement, for a distance along each street of 100 feet from the roadway intersection.

**G. Storm Sewers, Drains & Appurtenances:** All areas of the subdivision shall be graded to prevent erosion and unintentional ponding of water. Storm sewers and other drainage appurtenances shall be constructed throughout the entire subdivision, in accordance with good engineering and planning practices.

**1. Design Storm:** The drainage system shall be designed to handle a 50-25-year/24-hour storm event.

**2. Above-ground drainage** is preferable to underground systems. Above-ground drainage infrastructure shall be installed wherever such installation is practical.

**3. Drainage Swales** shall be situated at least 2 feet below the grade of the finished roadway, and their design shall be subject to the approval of the Town Engineer. Culverts for driveway crossing shall be of a size that is adequate to ensure proper flow without impedance.

**4. Cover:** There shall be a minimum cover of two feet over all roadway pipes and culverts under the road. Driveway culverts shall have a minimum cover of one foot.

**5. Erosion protection** for ditches shall be provided where warranted by soil conditions or water velocity. Erosion protection shall be provided for all pipe outlets.

#### **H. Utilities:**

**1. Underground:** All utility lines shall be placed underground in the street right-of-way or in dedicated easements.

**2. Grassy Areas:** Wherever possible, underground services will be placed under grassed areas rather than paved areas.

**3. Conduit Duct System:** The Primary Electrical and Communication Duct System shall be made up of four, 4-inch, schedule 40, PVC conduit, buried to a depth of not less than 36 inches.

- a. For electrical conduits, the duct system shall, at a minimum, meet the standards set forth in Public Service Company of New Hampshire's Construction Specifications for Underground Conduit Systems, Revision 2/8/96, as well as the standards detailed in these regulations. The stricter standard(s) shall govern.
- b. Conduit crossings installed under road pavement, and or within three feet of the road pavement edge, shall be encased with a minimum of six inches of excavatable concrete flowable fill.

4. **Street Light Service Enclosures:** At locations where the requirement for street light installation is waived by the Planning Board, service enclosures shall be installed along the underground electric system in order to facilitate the installation of streetlights in the future.
5. **Water Service** shall be extended to each buildable lot prior to road surfaces being put in place.

**I. Street Widths:** Each street right-of-way shall be a minimum of 50 feet wide. The width of the paved area shall be a minimum of 22 feet, and such additional width as may be required by the Planning Board. The centerline of the paved area shall coincide with the centerline of the ROW.

**J. Shoulders:** Each roadway shoulder shall be 2 feet wide.

**K. Grades:** No local street grade shall be in excess of 8% nor less than 2% nor greater than 3% within 75 feet of its point of intersection with any other street. Grades of streets shall conform as closely as possible to the original topography.

**L. Site Clearance:** The entire right-of-way of each street shall be cleared of all stumps, brush, roots, boulders, and all trees not intended for preservation. None of the preceding shall be used for fill.

**M. Ledge:** Ledge must be cleared to a minimum depth of 36 inches below the finished surface. Ledge occurring in pipe trenches must be cleared so as to allow a bedding material of at least 1 foot below and on both sides of the pipe.

**N. Side Slopes** shall not exceed one-foot vertical rise for every four feet of horizontal length. Steeper slopes require the installation of guard rails.

**O. Shade Trees** shall be planted at intervals of 100 feet along the roadway. The species and planting locations shall be recommended by the Newington Conservation Commission, and are subject to approval by the Planning Board.

**P. Reference Monuments:** The developer shall provide permanent monuments along the sides of street right-of-way, points of curvature, and reference pins along the sides of other easements and property lines.

1. **Permanent Monuments** shall be of stone at least 4" X 4" X 54", with a drill hole in the center. Install flush with grade or 2 inches above grade.
2. **Reference Pins** shall be of ferrous metal, 5/8 inch in diameter or larger and a minimum of 36" in length. The pin shall be driven into the ground and shall not



protrude above the ground surface more than 6" inches.

3. **Benchmarks:** A permanent marker, fabricated as described in section A above, shall be placed near a major roadway, and shall indicate the elevation in reference to the U.S.G.S. survey.

**Q. Street Name Signs:** The Planning Board shall be responsible for the naming of all streets and the municipality shall be responsible for the erection of street name signs at all street intersections.

**R. Bicycle Path Standards:** Bicycle paths are subject to the same performance standards required by these regulations for roadways in regards to compaction, erosion, weather, site clearance, excavation of unstable material, drainage, striping, and the quality of building materials. At a minimum, all bicycle paths shall be constructed to the following standards:

Feature	Material	Minimum Dimension
Gravel Base	Bank Run Gravel	8 inches
Crushed Gravel	Crushed Gravel	4 inches
Pavement Width		6 feet
Binder	Bituminous Concrete	1.5 inches
Finish Course	Bituminous Concrete	1 inch
Cross Slope Grade		.25 inches per foot

#### S. Summary of Dimensional Standards for Residential Roadways

Feature	Minimum	Maximum
Length of Dead-End Streets		1,500 feet
Openings onto Major Roads	400 feet	
Intersections on Opposite Side	125 feet apart	
Curve of ROW at Intersections	30 foot radius	
Curve of pavement at intersections	15 feet	
Obstructions at Corners		3 feet high
ROW Width	50 feet	
Design Storm	25 year - 24 hour	
Cover Over Pipes & Culverts	2 feet	
Removal of Ledge	36" below finish grade	
Base Course (bank run gravel)	12 inches	
Crushed Gravel Course	6 inches	
Width of Graded Shoulder	2 feet	
Roadway Pavement Width	22 feet	
Binder (bituminous concrete)	2.75 inches	
Finish Course (bituminous concrete)	1.25 inches	
Cross Slope Grade	.25 inches per foot	
Finished Lineal Grade	2%	8%
Grade within 75' of an Intersection needs review	2%	3%

## **T. Water Supply**

1. Water mains and hydrants shall be installed on all streets of the subdivision. Materials, pipe size, hydrant spacing, and installation shall be in accordance with the Water Agreement between the Town of Newington and the City of Portsmouth, except that the subdivider shall be responsible for the entire cost. Criteria on fire flow requirements as determined by the N.H. Board of Underwriters will be used in the determination of pipe sizes and hydrant spacing.
2. When a public water main lies within 2600 feet of the subdivision at its nearest point **the subdivider shall connect to such water main at his own cost.** Hydrants will be installed at a standard spacing along the connecting water main. The developer will assume the costs of the hydrants, associated fittings and installation of hydrants.
3. If a public water main is not available within 2600 feet of the subdivision, **the subdivider shall provide a private water supply** in accordance with the laws of the State of New Hampshire. The water supply shall be capable of satisfying the fire flow requirements of the subdivision. In addition, a capped-off branch line shall be laid to the edge of the nearest existing public road for future connection to a public water main.

**U. Sanitary Sewage:** Where a public sanitary sewer line within the Commercial/Industrial sewer systems is within 1500 feet of the lot or subdivision at its nearest point, the applicant shall connect with such sanitary sewer line with a line at least 8 inches in diameter. If the Planning Board and the governing authority deem it necessary to use a line of larger diameter, the municipality shall be responsible for the difference in cost between the 8-inch line and the oversize line. Where a public sewer is not reasonably accessible as determined by the Planning Board, the subdivider shall provide private means of sewage disposal in compliance with the laws of the State of New Hampshire. The public sanitary sewer line shall not be extended into that part of the Residential District west of the Spaulding Turnpike unless approved by the vote of the Town.

## **SECTION 5 - Standards for Subdivision Design**

**A -** Subdivisions shall be designed and configured to reinforce the town's rural character and historic working landscape, characterized by wooded hillsides and knolls, open fields, and a visual and functional relationship of structures to the surrounding landscape. All subdivisions shall conform to the following Standards for Subdivision Design unless waived by the Planning Board.

**B - Best Use of Land:** The Board, in considering any proposed subdivision plan, will be concerned with the requirements of the community and the best use of the land being subdivided. The Board will give particular attention to the following items within the proposed subdivision as well as how they may affect existing and potential adjoining land use:

- Width, arrangement and location of streets
- Sanitation
- Drainage systems
- Sizes and arrangement of lots
- Open space, and parks
- Retention of major site features.

**C -** Adequate street connections will be required whenever feasible to ensure access to adjoining subdivisions and lands.

**D - Protection of Fragile Features, and Natural and Cultural Resources**

Establishment of Building Envelopes. Building envelopes shall be designated to identify and limit the location of principal and accessory structures, parking areas, and associated site development (excluding road and utility rights-of-way or easements) on one or more portions of a lot. The size and shape of the building envelope shall at minimum be determined by the requirements of Article VI of the Zoning Ordinance unless otherwise specified in these regulations. The Planning Board may require the identification of specific building footprints if, in their judgement, such information is required to meet the standards set forth in these regulations. Where the Planning Board deems it appropriate to do so for the purposes of this Section, the Planning Board may consider features of immediately adjacent properties that are relevant to the Planning Board's evaluation of the proposed building envelope.

Suitability of Land for Subdivision. All land to be subdivided shall be, in the judgement of the Planning Board, of such a character that it can be used for the intended purpose(s), as stated in the application, without danger to public health or safety, the environment, neighboring properties, or the character of the area or district in which it is located. To this end, all applications for subdivision shall provide a detailed site analysis which identifies all fragile features and natural and

cultural resources described below, identifies the impact of the proposed subdivision on those resources, and sets forth the protection measures proposed to avoid or mitigate those impacts.

Protection of Wetlands, Flood plains and Surface Waters. Subdivision boundaries, lot layout and building envelopes shall be located and configured to avoid any adverse impact to wetlands, flood plains and surface waters, including streams, rivers and all shoreline as defined by Articles II & X of the Newington Zoning Ordinance. Methods for avoiding such impacts include but may not be limited to the following:

Lot boundaries shall be configured to prevent the fragmentation of these features unless appropriate legal mechanisms are put in place to ensure permanent protection.

Building envelopes and the layout of roads, driveways and utilities shall be located and sized to exclude these features, except as provided under subsection E, below.

Shoreline, riparian areas and wetlands, and adjacent buffer lands, should be designated as open space.

**E - Lot Layout:** The following standards shall govern the layout of lots:

All lots shall conform with the minimum area, placement of building envelope, road frontage, shoreline frontage if on an island and all other requirements of the Newington Zoning Ordinance.

In order to avoid odd shaped lots, and to ensure adequate space near the road for the construction of a dwelling unit, each lot shall have a Form Factor of less than 25. (See definition in Section 2.) Lots with either frontage greater than 300 feet or area greater than ten acres are exempt from this requirement.

To ensure adequate development space, building envelopes shall have a Form Factor of less than 25. (See definition in Section 2.)

All lots shall abut on a Class V or better highway, or a street shown on an approved subdivision plan, built in conformity with these regulations.



## **SECTION 6 – Floodplains**

For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

A. The Planning Board shall review the proposed development to assure 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.

B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

C. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:

- 1) all such proposals are consistent with the need to minimize flood damage;
- 2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
- 3) adequate drainage is provided so as to reduce exposure to flood hazards.

## **SECTION 7 - Amendments** to the Subdivision Regulations shall include the following steps:

**A -** The Board shall hold a least one Public Hearing on the proposed regulation and/or amendments.

**B -** Copies of the proposed regulations shall be posted in two public places and a summarized version printed in a newspaper of general circulation in the municipality.

**C -** The Town Clerk and Planning Board shall keep a copy on file.

**D -** Posting shall include the purpose of the hearing, time, place, date and a copy of the proposed regulations.

**E -** There shall be not less than sixteen (16) days between the day of posting and the hearing, not including the posting or hearing days. Saturdays, Sundays and holidays may be counted in the minimum required time.

**F** - At any time after the Public Hearing has been held and closed, the Board may vote on the regulations, as amended.

**G** - Those present and voting on the amendments shall sign and date the approved amendments.

**H** - Signed copies shall be placed on file with the Town Clerk, Selectmen and Planning Board and a copy transmitted to the Rockingham Registry of Deeds.

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**SECTION 8 - Administration and Enforcement:** It shall be the duty of the Board of Selectmen and that Board is hereby given power and authority to enforce the subdivision regulations. The Planning Board may appoint an agent charged with the responsibility of receiving for the Planning Board preliminary layouts and final plats, checking them to determine if they meet the requirements of the subdivision regulations, and inspecting improvements for compliance with the subdivision regulations and requirements of the Planning Board and Selectmen.

**SECTION 9 - Penalty:** Every subdivider violating any of the provisions of these regulations shall be fined, upon conviction, not more than \$100.00 for each day such violation may exist. Each violation shall be considered a separate offense for each day it occurs.

**SECTION 10 - Certificate of Failure to Take Action:** Upon failure of the Board to approve or disapprove the application as in Section 3, paragraph E(2) & (3), the applicant may obtain from the Selectmen, an order, directing the Board to act within fifteen (15) days. Failure of the Board to act on such order shall, upon petition of the applicant, constitute grounds for the superior court to issue an order approving the application, if the court determines that the proposal complies with existing subdivision regulations and zoning and other ordinances.

If the Planning Boards failure to act was not justified, the court may order the Board to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

**SECTION 11 - Waivers:** The planning board may only grant a waiver if the board finds, by majority vote, that:

- (1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or
- (2) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

# Site Plan Review Regulations

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**Site plans for all non-residential development shall be submitted to the Planning Board for review.**

**SECTION 1 - Authority:** Pursuant to the authority vested in the Town of Newington Planning Board voted on at the March 9, 1966 Town Meeting in accordance with the provisions of NH Revised Statutes Annotated, Chapter 36, Section 19a, 1955, as amended, the Town of Newington Planning Board adopts the following regulations governing the review of site plans, whether or not such development includes a subdivision or re-subdivision of the site. These regulations shall be entitled, "*Site Plan Review Regulations*".

**SECTION 2 - Purpose:** The purpose of the Site Review Procedure is to protect the public health, safety and welfare; to promote balanced growth; to promote the timing of development to prevent premature and uncoordinated development of land without the adequate provision of public services and facilities; to ensure sound site utilization; to avoid development which may result in negative environmental impacts; and to guide the character of development. The Site Review Procedure in no way relieves the developer, his/her agent, or individual, from compliance with the Zoning Ordinance, Subdivision Regulations or any other ordinance which pertains to the proposed development. No site plan will be approved until it complies in all respects to any and all pertinent ordinances and regulations.

**SECTION 3 - Definitions:** The meanings of terms defined in the Newington Zoning Ordinance and Subdivision Regulations apply also to these regulations. Additional terms are defined as follows:

**Best Management Practices (BMP):** Methods that have been determined to be the most effective, practical means of preventing or reducing pollution from non-point sources.

**Buffer:** A buffer is a special type of preserved area along a watercourse or wetland where development is restricted or prohibited. Buffers protect and physically separate a resource from development. Buffers also provide stormwater control flood storage and habitat values. Wherever possible, riparian buffers should be sized to include the 100- year floodplain as well as steep banks and freshwater wetlands.

**Condominium Conversion:** The placing or conversion of real property or any interest therein into a condominium form of ownership pursuant to NH RSA 356-B.

**Direct Glare:** The sensation produced by insufficiently shielded light sources within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss of visual performance and visibility.

**Disturbance:** Any activity that significantly alter the characteristics of the terrain in such a manner as to impede the natural runoff or create an unnatural runoff.

**Fully Shielded Fixture:** An outdoor light fixture shielded or constructed so that no light rays are emitted by the installed fixture at angles greater than 20 degrees below the horizontal plane.

**Groundwater Recharge Volume (GRv):** The post-development design recharge volume (i.e., on a storm event basis) required to minimize the loss of annual pre-development groundwater recharge. The GRv is determined as a function of annual pre-development recharge for site-specific soils or surficial materials.

**Hydrologic Soil Group (HSG):** A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

**Impervious Surface:** Those surfaces that cannot effectively infiltrate rainfall consisting of surfaces such as building rooftops, pavement, sidewalks, driveways, compacted gravel (e.g., driveways and parking lots).



**Light Trespass:** Light that is distributed beyond the intended target and onto adjacent properties.

**Low Impact Development (LID):** Low impact development is a site planning and design strategy intended to maintain or replicate predevelopment hydrology through the use of site planning, source control, and small-scale practices integrated throughout the site to prevent, infiltrate and manage runoff as close to its source as possible.

**Maximum Extent Practicable (MEP):** To show that a proposed development has met a standard to the maximum extent practicable, the applicant must demonstrate the following: (1) all reasonable efforts have been made to meet the standard, (2) a complete evaluation of all possible management measures has been performed, and (3) if full compliance cannot be achieved, the highest practicable level of management is being implemented.

**Native Plants:** Plants that are adapted to the local soil and rainfall conditions and that require minimal watering, fertilizer, and pesticide application.

**Outdoor Lighting Fixture:** An electrically powered illuminating device containing a total light source of greater than 1800 initial lumens per fixture (This is greater than a single 100 watt incandescent bulb or two 75 watt reflectorized incandescent bulbs), that is permanently installed outdoors.

**Performance Guarantee:** Irrevocable Letter of Credit, cash or Insurance Bond, the form to be designated by the Planning Board and its Counsel.

**Redevelopment:** Any construction, alteration, or improvement that disturbs a total of 20,000 square feet or more of existing impervious area where the existing land use is commercial, industrial, institutional, or governmental. Building demolition is included as an activity defined as "redevelopment", but building renovation is not. Similarly, removing of roadway materials down to the erodible soil surface is an activity defined as "redevelopment", but simply resurfacing of a roadway surface is not. In general, the requirements in this regulation do not apply to projects or portions of projects when the total existing impervious area disturbed is less than 20,000 square feet. Any creation of new impervious area over portions of the site that are currently pervious is required to comply fully with the requirements of these site plan regulations.

**Sag Glass Lens:** Any lens on the lower face of a Shoe Box Style Outdoor Lighting Fixture that is other than flat.

**Seasonally High Groundwater Table:** The highest elevation of the groundwater table typically observed during the year.

**Shoe Box Style Fixture:** Any round or square Outdoor Lighting Fixture that mounts perpendicular to the pole and is Fully Shielded.

**Stormwater Management Plan:** Plan describing the proposed methods and measures to prevent or minimize water quality and quantity impacts associated with a development or redevelopment project both during and after construction. It identifies selected LID source controls and treatment practices to address those potential impacts, the engineering design of the treatment practices, and maintenance requirements for proper performance of the selected practices.

**Structural BMPs:** Devices that are constructed to manage stormwater runoff.

**Wall Pack Style Fixture:** Any Outdoor Lighting Fixture that mounts on the outer wall of a building.

**Water Quality Treatment:** the capture of sediment, nutrients, metals and hydrocarbons suspended in stormwater runoff from impervious surfaces before being conveyed to a storm sewer network or to another water quality treatment system. In most cases where no other local water body impairments exist, adequate treatment refers to documenting the treatment systems ability to remove 80% of the total suspended solids (TSS) on an annual basis. Where water quality impairments do exist adequate treatment refers to a systems ability to meet maximum load allocations or not further impair the receiving water.

**Water Quality Volume (WQv):** The storage needed to capture and treat 90% of the average annual stormwater runoff volume. In New Hampshire, this equates to 1-inch of runoff from impervious surfaces. WQV should be calculated using the following equation:  $WQV = (P)(R_v)(A)$ , where:  $P = 1$  inch  $R_v$  = the unitless runoff coefficient,  $R_v = 0.05 + 0.9(I)$   $I$  = the percent impervious cover draining to the structure, in decimal form, and  $A$  = total site area draining to the structure.

**SECTION 4 - Procedure:** Site Plan review shall be conducted in accord with the procedural requirements contained in Section 3 "*Procedures on Plans*" of the Newington Subdivision Regulations, including the notice to abutters and the hearing.

**SECTION 5 - Standards:** Sites for non-residential development shall be reviewed so as to minimize traffic congestion, traffic hazards, unsightliness, annoyance to other nearby land uses, erosion and other effects detrimental to the abutters, the neighborhood, the environment of the Town. In order to attain these goals, the Planning Board shall determine that:

a) **Appropriate Buffers** are maintained or installed to screen the use from neighboring properties. Landscape treatment shall consist of natural vegetation or features, or ground cover, shrubs, or trees as appropriate.

b) **Vegetative Buffers:** Within each setback required by the Zoning Ordinance, no more than 50 percent of the trees may be removed over a 20-year period. For the purposes of this section, "*tree*" shall mean any woody plant which has a circumference of 15 inches or more at a point 4 feet from the ground.

c) **Trees:** For every seven parking spaces constructed on the premises, one tree, no less than 2" in diameter, shall be planted within the setback areas.

d) **Parking:** Sufficient off-street parking is provided for the anticipated use.

e) **Loading:** Sufficient off-street loading space is provided, including off-street areas for maneuvering the anticipated trucks or other vehicles.

f) **Dust:** Access, parking and loading areas are constructed so as to minimize dust, erosion and run-off conditions that would have detrimental effect on abutting or neighboring properties. The Planning Board may require paving if appropriate or necessary.

g) **Erosion:** Grading, paving and storm drainage systems, will not result in erosion/sedimentation of streams, or damage to abutting properties and roads.

h) **Light, glare, odors, noise and vibration** will not be discernable off the premises except for indirect lighting on permitted signs or security lighting. Such lighting shall not glare on abutting properties or public highways or streets.

i) **Streets:** Access to public streets will meet the standards of the NH Department of Transportation and/or the Town of Newington, as adopted and annotated.

j) **Utilities:** Water supply and sewage and disposal facilities are sized to adequately meet the needs of the proposed use under the regulations of New Hampshire Department of Environmental Services and/or the Town of Newington Subdivision Regulations.

k) All sidewalks and bicycle paths shall be constructed in accordance with the Town's applicable standards and specifications and approved by the Planning Board and the Town Engineer; all roads shall be constructed to the standards set forth herein.

l) The public **health, safety, and welfare** will be otherwise protected.



## SECTION 6 - Cultural Resource Protection

**a) Definition of Cultural Resources:** Cultural Resources consist of historic and prehistoric archeological sites and standing structures, cemeteries, private graveyards, stone walls, cellar holes, old growth trees and other artifacts and features which contribute to the authentic cultural heritage of Newington.

Specifically, this definition includes, but is not limited to provisions included in RSA 231:157, RSA231:158 (Scenic Roads), RSA 472:6(Stone walls), RSA 289:3(cemeteries and private graveyards).

**b) Determination of Need:** The determination of need for a cultural assessment, paid for by the applicant, shall be based on:

- proximity to identified archeological or historic sites and/or
- natural terrain features where these factors reflect documented settlement patterns of Native Americans or American Colonials

**c) NH Division of Historical Resources:** The Planning Board or its designee shall seek advice and comment from NH Division of Historic Resources if needed.

**d) Management Plan:** A cultural resource management plan shall be submitted to the Planning Board or its designee consisting of:

- a written investigated report prepared by a professional archeologist
- an evaluation of the proposed development on the culturally sensitive site.
- a description of measures to be undertaken by the applicant to mitigate adverse impacts of construction activities on identified cultural resources. Measures may include preservation of archeological site in situ and avoidance, open space designation, conservation easements, redesign or relocation of roads, drainage or buildings.
- a review and comment by NH Division of Historic Resources.

**SECTION 7 - Submission Requirements:** The items which follow are required for site review (also see Town of Newington Subdivision Regulations, Section 3 - Procedures on Plans (Plats), for additional information). All plans, exhibits, photographs, and drawings that are presented to the Planning Board thereafter become the property of the Town of Newington.

**a) Application:** For the formal application stage (see Section 3D. Subdivision Regulations) submit a properly filled out application.

**b) Site plan:**

- 1 - Sheet Size 24" X 40" maximum.
- 2 - Scale 1" = 20' (1 inch = 20 feet)
- 3 - Match lines when needed.
- 4 - Original plan to show entire property and all facilities. Subsequent additions to be indicated by shading, coloring or heavy outline.
- 5 - Original on Mylar in permanent ink and three (3) paper copies of each plan.
- 6 - Date, title, scale, north arrow, location map.
- 7 - Names and addresses of developer, designer/engineer, owner(s) of record and abutters.
- 8 - Name, license number and seal of the NH licensed land surveyor/engineer, wetland scientist, soil scientist, and any other professional associated with the project.
- 9 - Topographical plan with contour lines at two (2) foot vertical intervals. Benchmark from USGS datum.
- 10 - Show all easements and rights-of-way.
- 11 - Adequate space on the plan for the necessary endorsement by the Planning Board.

**c) Lighting Specifications:**

**1** - Description of all Outdoor Lighting Fixtures including component specifications such as lamps, reflectors, optics, angle of cutoff, support poles, additional shields, etc. Include the manufacturers catalog cut or specification sheet for each type of fixture used.

**2** - Location and description of every outdoor lighting fixture including hours of operation.

**3** - The maintained horizontal luminance shown as foot candles (after depreciation) as follows:

a) Maximum

b) Minimum

c) Average during operating and non-operating hours

d) Average to Minimum Uniformity Ratio

**4** - Computer generated photometric grid of the site showing the average footcandle reading in every ten foot by ten foot square. This grid shall include contribution from all sources, (i.e., Pole mounted lights, wall mounted lights and signs).

**5** - Foundation and pole details.

**d)** Separate list of current names and correct mailing addresses of all abutters of the property line, including those across any street or stream, plus owner(s) of record and applicant, if different.

**e)** Abutters' notification fee, payable to the Town of Newington.

**f)** Application fee for New Construction: \$600; Change of Use: \$ 150.  
Administrative fees may be required for administrative expenses, special investigative studies, review of documents and legal, engineering and other professional services which may be required by particular application. Prior to

review of the application by the Planning Board, the applicant shall submit a cash bond or a letter of credit acceptable to the Planning Board in order to ensure that the above referenced studies and services are funded by the applicant pursuant to RSA 676:4I(g).

**g) Stormwater:** All stormwater management systems and site drainage designs shall be designed by a Registered Professional Engineer consistent with the following requirements and all drainage and sizing calculations should be included in the Stormwater Management Plan. Submittal of the following is required in order to assess the impact of storm water:

- 1) Surface water and wetlands, drainage patterns, and watershed boundaries
- 2) Soils information for design purposes with coding as HSG-A, B, C, or D
- 3) Temporary and permanent stormwater management and erosion and sediment control BMPs
- 4) Areas and timing of soil disturbance
- 5) A schedule for the inspection and maintenance of all BMPs
- 6) Water well and septic locations, including protective radii and reserve areas. Including distance to seasonal high water (SHGW) and shallow depth to bedrock.
- 7) Calculations (Pre- and Post-Development) relating to stormwater runoff (rates and volumes) based on a one inch (WQV), and 50-year 24-hour storm frequency.
- 8) A Stormwater Management and Erosion Control Plan
- 9) Any additional permits as may be required, in compliance with Environmental Protection Agency (EPA) guidelines.



**SECTION 8 - Required Exhibits and Data:** The following items are required on the site plan(s):

- a) Sketch of site showing existing natural features including water courses and water bodies, trees and other vegetation, topographic features, any other features which should be considered in the site design process;
- b) Plans of all buildings with their type, size, location (setbacks) and elevation of first floor slab indicated; (assume permanent on-site elevation);
- c) An elevation view of all buildings indicating their height, bulk and surface treatment;
- d) Location of off-street parking & loading spaces with a layout of the parking indicated;
- e) The location, width, curbing and type of access ways and egress ways, plus streets within and around proposed site;
- f) The size and proposed location of water supply and sewage facilities and provide for future expansion of sewage and water facilities, and show all distances from existing water and sewage facilities, including letters from each utility, signed by a person authorized the utility confirming that service is available to the site;
- g) The type and location of solid waste disposal facilities;
- h) The location, elevation and layout of catch basins and other surface drainage features;
- i) Existing and proposed contours and finished grade elevations; all contours shall be a maximum of 2-foot intervals;
- j) The type, extent and location of existing and proposed landscaping and open space areas indicating what existing landscaping and open space areas will be retained;
- k) The location, size and design of proposed signs and other advertising or instructional devices;

- l)** The size and location of all public service connections - gas, power, telephone, fire alarm, (overhead or underground), etc.
- m)** The location and type of lighting for all outdoor facilities;
- n)** Lines of all existing and adjoining streets;
- o)** Surveyed property lines showing their deflection angles, distances, radii, lengths of arcs, control angles, along property lines and monument locations and names of all abutters;
- p)** If a subdivision, then lines and names of all proposed streets, lanes, ways or easements intended to be dedicated for public use. All Newington Subdivision Regulations shall apply;
- q)** Any other exhibits or data that the Planning Board may require in order to adequately evaluate the proposed development for site review.
- r)** New Hampshire State Plane Coordinates and USGS 1983 North American Datum.
- s)** Digitized copies of the final plan shall be submitted in .dwg and .pdf formats.

**SECTION 9 - Lighting:** All lighting fixtures shall meet the following standards:

**a) Shielding:** In order to minimize light trespass and direct glare beyond the site boundary, all Outdoor Light Fixtures shall be fully shielded. This includes Wall Pack Style Fixtures.

**b) Type:** Pole mounted Outdoor Light Fixtures shall be Shoe Box Style. Shoe Box Style Fixtures with Sag Glass Lens and pole mounted flood or spot lights are prohibited.

**c) Height:** External mounting of any lighting fixtures shall be limited to 20 feet in height above ground inclusive of the foundation height.

**d) Abutters:** Outdoor lighting systems shall be designed such that direct glare is not observable above a height of five feet at the site boundary. Designers are cautioned that this may require shorter poles at perimeter locations depending upon the fixture angle of cut off.

**e) Ornamental Lighting** and lighting fixtures used to illuminate landscaping or buildings are prohibited except those which will project light equal to or less than incandescent fixtures of 100 watts.

**f) Signs:** Lighting fixtures used to illuminate outdoor signs shall be subject to the direct glare restriction of section A and shall be fully shielded.

**g) Specifications:** All outdoor lighting systems shall be designed so as not to exceed the following Illuminating Engineering Society of North America (IESNA) recommended illuminance levels:

	<b>Hozizontal Illuminance</b> (Footcandles)		<b>Uniformity Ratio</b>
	<b>Average</b>	<b>Minimum</b>	
Shopping Centers, Restaurants & Offices during operational hours.	2.4	.9	4/1
Industrial employee parking and other sites during non-operational hours	.8	.2	6/1
All Sites under all operating conditions when measured ten feet from the property line on abutting properties.	.1	n/a	n/a

*Note: These levels do not apply under service station canopies or awnings at building entrances, however all lights shall be fully shielded or fully recessed into the canopy or awning to meet the direct glare design requirement of section*

**h) Hours:** All outdoor lighting systems shall be equipped with timers to reduce illumination levels to non-operational levels at a minimum during non-operational hours.

**i) Illuminated Signs** shall be equipped with timers to extinguish signs during non-operational hours.

**j) Low Pressure Sodium** lights are encouraged.

**k) Inspection:** The Planning Board or its designee shall inspect each site to ascertain compliance with these standards prior to the issuance of an occupancy permit.

**SECTION 10 - Performance Guarantee:** Before approval of a site plan by the Planning Board, the applicant shall provide the Town with a Performance Guarantee, in an amount sufficient to cover 150% of the cost to restore and/or stabilize the site. This Performance Guarantee shall be approved as to form and sureties by legal counsel of the Town of Newington, and conditioned on the completion of such improvements as specified by the Planning Board.



**SECTION 11 - Condominium Conversion:** Condominium conversions must be approved, in advance, by the Newington Planning Board. In addition to the requirements specified in these *Site Plan Review Regulations*, applicants for condominium conversion must meet the following additional requirements:

**a) - Documents:** 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.

**b) - Utilities:** A plan shall be submitted to the Planning Board showing the location of all utilities on the site, and the plan shall indicate the locations where the shutoff valves will be located. The plan shall indicate whether or not additional meters or additional lines from the street will be required as a result of the condominium conversion. Shut-off valves shall be located on Town-owned property or in a Town-owned right-of-way.

**c) - Legal Status:** The units which are subject to the requests for condominium conversion must, at the time of the request, exist as legal units pursuant to the ordinances of the Town of Newington. The burden shall be on the petitioner to demonstrate that the units to be converted are legal.

**d) - Responsibilities Clearly Delineated:** The responsibility for maintenance, operation, replacement and protection of utilities shall be clearly established by the Condominium agreement.

**e) - Wetland Protection:** In order for the Condominium Conversion Regulations to be consistent with Article X of the Zoning Ordinance ("*Wetlands*"), no proposed Limited Common Area shall be allocated a disproportionate share of a lot's wetlands.

**SECTION 12 – Floodplains:** For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

- a) The Planning Board shall review the proposed development to assure 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.
- b) The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).
- c) The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
  - (i) all such proposals are consistent with the need to minimize flood damage;
  - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
  - (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

**SECTION 13 - Traffic Mitigation:** The development or redevelopment of any site in the Office District, Commercial District, or any of the industrial districts may be approved only after a finding by the Planning Board that the following conditions are met at the time of opening of the building and that they will continue to be met for five years from the time of building opening:

**a) Visibility:** Line of sight distance shall meet or exceed NH DOT standards for entrances and exits to commercial sites.

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**b) Access:** Access to the site shall be directly from a Town road or State highway or through a private roadway built to Town standards and approved by the Planning Board.

**c) Traffic Controls:** Adequate traffic controls shall be provided to insure safe access and on-site circulation of vehicle and pedestrian traffic. If traffic signals are required, signalization shall be synchronized with other traffic signals in the Town if such interconnection is found to be appropriate by the Planning Board.

**d) Acceleration/Deceleration Lanes:** Acceleration/deceleration lanes or suitable alternate roadway improvements shall be provided on State and Town roads where the Planning Board finds that such lanes are necessary to provide safe site access based on sound engineering principles and practice.

**e) Off-site Improvements:** The landowner/developer shall pay the fair share of all off-site highway improvements necessary to maintain stable peak hour traffic flow conditions, and/or payment of landowner's fair share of the costs associated with the replacement or creation of reserve capacity in the roadways and intersections impacted with the Town by the proposed development. In evaluating the traffic impacts, the Planning Board's consideration will include, but not be limited to, the volume and nature of the traffic.

**f) Fair Share Calculations:** In determining a landowner's "fair share" of off-site roadway improvements, the Planning Board shall be guided by the tests established by the New Hampshire Supreme Court in *Land/Vest Props, Inc. v. Town of Plainfield*, 117 N.H. 817 (1977) and *N.E. Brickmaster v. Town of Salem*, 133 N.H. 655 (1990). The Planning Board can compel a landowner to assume only that portion of the cost for off-site improvements that bear a rational nexus to the needs created by and the special benefits conferred upon the development. In making this calculation, the Board must consider the burdens that will be

immediately imposed by the development and those that will be imposed in the demonstrably immediate future. Future and indirect benefits accruing to the development from the improvements can be considered since permanent improvements are not made solely with reference to present conditions.

**g) Fair Share Factors:** No single factor can be determinative of the appropriate mode of apportionment of improvement costs. A non exhaustive list of the factors which might be used in allocating costs include:

- 1) Roadway Standard:** the standard to which impacted roadways and intersections are presently maintained;
- 2) Level of Service:** the existing level of service of impacted roadways and intersections;
- 3) Frontage:** the frontage of the proposed development on State and local roadways;
- 4) Potential Traffic:** the potential traffic increases necessitated by the proposed development; and
- 5) Development Potential:** the character and potential for development and redevelopment of the area served by impacted roadways.

**h) - Mitigation Funds:** Funds contributed to the Town for mitigation of existing roadway/intersection infrastructure deficiencies may be used by the Town to construct improvements or to represent the Town's fair share toward improvements to State highways, or may be used by the Town to develop and implement programs to reduce dependence upon automobiles at the impacted roadways & intersections within the town.

**i) - Time Limit on Holding Escrow Funds:** If, within sixty months of the issuance of a certificate of occupancy for which the funds were contributed, the funds have not been expended or otherwise encumbered for the purpose for which they were collected, the developer/applicant contributing the funds may request that the funds be returned. If, upon hearing, the Planning Board determines that the contributed funds are still needed and that the project(s) for which they are being held is still scheduled for implementation, the funds may continue to be held. If the purpose for which the funds were originally



contributed is no longer necessary, the funds shall be returned with accrued interest. In any event, the maximum time that funds may be retained under this section shall be ten years.

**j) - Review Costs:** The costs incurred by the Town in reviewing traffic studies of applicants, calculating the fair share of off-site improvements and/or in developing mitigation plans shall be borne by applicants.

**k) - Construction Standards:** All improvements required by this ordinance shall be built in accordance with local, State, and ASHTO standards.

## **SECTION 14 – Parking Lot Design Requirements:**

- a) A minimum eight (8) foot wide planting median shall be provided between every other adjacent row of parking. Water quality swales or rain garden beds (if sheet flow is allowed) will be designed to promote detention time and infiltration. Soils must be designed for infiltration and evaluated for need of amendments. Overflow contingencies shall be provided and plumbed to adjacent drainage network if necessary.
- b) All areas that receive rainfall must be designed to drain within a maximum of 72 hours for vector control.
- c) The use of porous pavement is discouraged, however, where it is used it shall be considered impermeable and not considered s part of a Stormwater Management Plan. All pervious pavements shall be perpetually maintained in strict accordance with commonly accepted engineering/maintenance practices whether or not the previous pavement was places as part of a drainage system.
- d) Parking areas for agricultural uses where access to the general public is permitted by the Town (farm stands, outdoor education, etc. (agritourism) shall comply with the following standards:
  - 1. An adequate amount of formal parking spaces shall be provided for the number of vehicles visiting the site.

2. The Planning board shall determine the amount of parking spaces required but in no case shall any agricultural operation have more than 10 parking spaces.
3. All parking areas shall meet setbacks and shall be connected to a public road with a driveway of adequate width built to a standard sufficient to handle the proposed level of traffic.
4. All parking areas and driveways should be paved.
5. ~~Driveways providing access to public parking areas shall be located to~~ provide the sight distance required for the location including, but not limited to road geometry, nearby intersections and driveways, vegetation within the road ROW, and posted speed limits.
6. Parking lot lighting is discouraged, however, if the Planning Board permits the agritourism activities during evening hours, light shall be at the minimum accepted levels to allow the parking area to be used safely.
7. In cases where a proposed parking lot is located in close proximity to any residential structures, or as deemed necessary by the Planning Board, dense evergreen plantings shall be required to provide screening.
8. The Planning Board may require a long-term surety mechanism to remove and revegetate the parking lot if the agritourism operation is discontinued.

## **SECTION 15 - Landscaping Standards**

**a) Purpose:** The intent of landscaping regulations is to achieve a high quality site appearance, to assure design compatibility, to direct character and form, to conserve water, and to enhance the overall value of the community. The purpose of specific provisions contained in these regulations is to:

- 1) Avoid extensive grading
- 2) Retain as much of the original vegetation as possible and incorporate into site design.

- 3) Encourage preservation and enhancement of community character
  - 4) Provide buffers between incompatible land-uses or sites
  - 5) Control airborne particulates such as soot and dirt
  - 6) Enhance the public or private streetscape
- 
- 7) Provide screening of service structures (dumpsters, etc.)
  - 8) Provide visual, impervious cover, and climatic relief from broad expanses of pavement and define areas for pedestrian and vehicular circulation
  - 9) Create a pedestrian-friendly environment
  - 10) Break up the mass of buildings and impervious areas
  - 11) Soften architectural and structural materials

**b) Landscaping Plan:** A landscaping plan shall be submitted with each application for major site plan review showing existing and proposed features, and the locations of all plant materials. A plant schedule shall accompany the plan, indicating the botanical and common names, size, quantity, and description for all proposed plants. Existing trees, shrubs and plant beds to be retained shall be described. Landscape plans shall incorporate water conservation planting techniques and hardy plant materials. The landscaping plan shall incorporate the following:

- 1) Reasonable efforts shall be made to remove and destroy non-native invasive plants from the site, and provisions made to continually remove invasives.
- 2) Existing topography shall be maintained wherever feasible and extensive grading

avoided. Those areas that shall be disturbed shall be replaced with a minimum of 6" of suitable topsoil either from the stockpile or off-site and then be replanted with grass seed, sod or other vegetative groundcover.

- 3) All proposed plantings shall be appropriate for the soils, weather and environmental conditions of the site. Particular attention shall be paid to potential road salt and other deicing chemicals. Plant materials shall be of specimen quality conforming to the American Standards for Nursery Stock (ANSI Z60.1-1980 or later revision) and should be guaranteed for at least two growing seasons.
- 4) No loam or other topsoil shall be removed from the site as part of site development. Topsoil shall be appropriately stockpiled and stabilized for redistribution within new planting areas.
- 5) Existing soils will be evaluated for need of soil amendments to promote infiltration and plant growth as needed.
- 6) Existing topography shall be maintained wherever feasible and extensive grading avoided. Those areas that shall be disturbed shall be replaced with a minimum of 4" of suitable topsoil either from the stockpile or off-site and then be replanted with grass seed, sod or other vegetative groundcover.
- 7) Re-vegetated areas shall be replanted with hardy native species appropriate to the site.
- 8) Dead vegetation shall be replaced within one growing season, based on standard seasonal planting practices with healthy living plants in all required landscape areas. All planting areas shall be landscaped with a combination of climate tolerant plant material and protective ground cover. Bare soil is not permitted. Where wildlife habitat requires unmaintained vegetation an exemption may be adopted.
- 9) All proposed plantings shall be appropriate for the soils, weather and environmental conditions of the site. Particular attention shall be paid to potential road salt and other deicing chemicals. Plant materials shall be of specimen quality conforming to the American Standards for Nursery Stock

(ANSI Z60.1-1980 or later revision) and should be guaranteed for at least one and one half years.

10) Side slopes shall not exceed fifteen (15) percent (2:1 slope), and shall be appropriately stabilized with loam and seed, hydroseed, sod, ground cover or mulching materials.

11) Existing landscaping, trees and planting materials to be retained shall be protected as necessary during construction to avoid damage.

12) Tree wells and raingardens where possible shall be designed to receive and filter stormwater runoff and provide for up to 8 inches of ponding depth with appropriate overflow and underdrain connections to existing drainage structures. Such structures that have the potential to present a falling hazard to the public shall have grates, fences or other protective measures installed.

13) All areas that receive rainfall must be designed to drain within a maximum of 72 hours for vector control.

**c) Planting Requirements:** Native plants should be used as much as feasible to enhance the long-term survival prospects of the plant materials used in site landscaping. These standards are also meant to ensure that the benefits of site landscaping (buffering, aesthetic enhancement, erosion control, etc.) are realized as early after planting as possible.

**d) Maintenance and Replacement of Landscaping:**

1) Landscaping shall be maintained in good condition. The property owner will remove and replace dead or diseased plant materials immediately with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are requested, justified, and approved by the Board.

2) Avoid replacing landscape materials in the period from November– March.



- 3) A performance guarantee to cover the cost of replacement plant materials and maintenance equipment shall be provided for one year after the date of site plan approval.
- 4) A note shall be provided on the Site Plan stating: "All conditions on this Plan shall remain in effect in perpetuity".

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## **SECTION 16 - Stormwater Management**

**a) Stormwater Management and Erosion Control Plan Requirements:** The applicant shall submit a Stormwater Management and Erosion Control Plan to the Planning Board for any tract of land being developed, where one or more of the following conditions are proposed for a combined area greater than 20,000 square feet:

- 1) Construction or reconstruction (but not maintenance) of a street, road or parking lot;
- 2) New development resulting in soil disturbance or creation of impervious cover; or
- 3) Redevelopment resulting in soil disturbance or creation of impervious cover.

Phased development of subdividable commercial/industrial properties: design requirements of this regulation shall apply to phased applications for the original parcel as though the development of the entire parcel were proposed in one application at one time.

**b) Minimum Requirements:** Stormwater and Erosion Control Plans shall meet the following requirements and /or show the following information:

- 1) The plan shall be in compliance with the EPA Phase II Stormwater Rules, as amended.
- 2) All measures in the plan shall meet as a minimum the Best Management Practices (BMP) set forth in the NH Stormwater Management Manual volume 2

(stormwater BMPs), and volume 3 (erosion and sediment controls), December 2008 as amended, a copy of which is available from NHDES: [des.nh.gov/organization/divisions/water/stormwater/manual.htm](http://des.nh.gov/organization/divisions/water/stormwater/manual.htm)

3) A report section that includes:

a) Design calculations for all temporary and permanent structural BMP measures.

b) A comprehensive maintenance plan including the proposed schedule for the inspection and maintenance of all BMPs.

c) Identification of all permanent control measures and responsibility for continued maintenance.

d) Drainage report with calculations showing volume, peak discharge, and velocity of all subwatersheds for pre-developed and developed conditions.

e) All designs will conform to the criteria outlined for those types of structures given in the NH Stormwater Management Manual.

**c) Water Quality Protection:** All aspects of the application shall be designed so that:

1) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, noxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters.

2) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall meet the standards of the New Hampshire Department of Environmental Protection (NHDES), Water Supply and Pollution Control.

3) All projects of such magnitude as to require a stormwater permit from EPA or NHDES shall comply with the standards of EPA and/or NHDES AOT program, with respect to the export of total suspended solids and other pollutants. If the project does not require a stormwater permit from EPA or NHDES, it shall be

designed to achieve 80% removal of total suspended solids, and 50% removal of both total nitrogen and phosphorus.

**d) Stormwater Management for new development or development in undisturbed areas:** Adequate provisions shall be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces. For activities labeled redevelopment treatment shall include all of the listed requirements below but subject to the provisions in Section 16e. All construction activities, regardless of the area of disturbance, shall meet the following performance guidelines:

- 1) Existing surface waters, including lakes, ponds, rivers, perennial and intermittent streams (natural or channelized), and wetlands (including vernal pools) shall be protected by a minimum 100 foot no disturbance naturally-vegetated buffer. Stormwater and erosion and sediment control BMPs shall be located outside the 100-foot buffer zone. Stream and wetland crossings shall be eliminated whenever possible. When necessary, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to flow and animal passage (see University of New Hampshire Stream Crossing Guidelines May 2009, as amended).
- 2) LID site planning and design strategies must be used to the maximum extent practicable in order to reduce the generation of the water runoff volume for both new and redevelopment projects. An applicant must document why LID strategies are not appropriate if not used to manage stormwater.
- 3) All stormwater treatment areas, shall be planted with grasses, shrubs and/or other plantings sufficient to prevent soil erosion and to promote proper treatment of the proposed runoff.
- 4) All areas that receive rainfall must be designed to drain within a maximum of 72 hours for vector control.
- 5) Buildings, streets, parking lots and other construction shall be located out of the post-development flood plain to reduce construction and post-construction drainage problems.
- 6) Snow and salt storage areas shall be covered or located such that no direct untreated discharges to receiving waters are possible from the storage site.

Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater.

7) Sheet flow or runoff flows should be directed into recessed vegetated areas to the maximum extent practicable so as to reduce Effective Impervious Cover (EIC) and reduce the need for water supply systems.

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8) The plan shall attempt to retain stormwater on the site using the natural flow patterns of the site. Effort shall be made to utilize natural filtration and or infiltration best management practices (ie. bioretention areas, subsurface infiltration systems, ponds, swales, etc). All best management practices shall be permitted with an acceptable maintenance plan as required in Section 9.7.

9) Measures shall be taken to control the post-development peak rate and volume of runoff so that it does not exceed pre-development runoff for the 10-year and 50-year, 24-hour storm event and for additional storm event frequencies as specified in the channel protection volume design criteria of the NH Stormwater Management Manual, December 2008 amended, a copy of which is available from NHDES:

<http://des.nh.gov/organization/divisions/water/stormwater/manual.htm>

10) The applicant shall demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, such as flooding and erosion of stream banks and shoreland areas. Stormwater management of site development or re-development should incorporate considerations of existing stream geomorphic status.

11) The biological and chemical properties of the receiving waters shall not be degraded by the stormwater runoff from the development site.

12) The design of the stormwater drainage system shall provide for the disposal of stormwater without damage or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.

13) The design of the storm drainage systems shall take into account upstream runoff that passes over or through the site to be developed or re-developed and provide for this movement.

14) Whenever practical, natural vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.

15) Appropriate erosion and sediment control measures shall be installed prior to any soil disturbance such that the area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.

16) Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.

17) All temporary control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized prior to removal of temporary control measures.

**e) Redevelopment Project Requirements:** For sites meeting the definition of a redevelopment project and having more than 40% existing impervious surface coverage, modified stormwater management requirements (below) will apply. For sites with less than 40% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects with the important distinction that the applicant can meet those requirements either on-site or at an approved off-site location within the same watershed provided the applicant satisfactorily demonstrates that impervious area reduction, LID techniques and/or structural BMPs have been implemented on-site to the maximum extent practicable.

Because redevelopment may present a wide range of constraints and limitations, this standard allows for flexibility and an evaluation of options that can work in conjunction with broader state watershed goals and local initiatives. Stormwater requirements for redevelopment vary based upon the surface area of the site that is covered by existing impervious surfaces. In order to determine the stormwater requirements for redevelopment projects, the percentage of the site covered by existing impervious areas must be calculated. The term "site" is defined as one or more lots, tracts, or parcels of land to be developed or redeveloped for a complex of uses, units or structures, including but not limited to commercial, institutional, governmental, and/or mixed



uses. For sites with less than 40% existing impervious surface coverage, the stormwater management requirements for redevelopment will be the same as for new development. The applicant can meet those requirements either on-site or at an approved off-site location within the same watershed provided the applicant satisfactorily demonstrates that impervious area reduction, LID strategies, and/or structural BMPs have been implemented on-site to the maximum extent practicable.

For redevelopment sites with more than 40% existing impervious surface coverage, stormwater shall be managed for water quality in accordance with one or more of the following techniques listed in order of preference:

- 1) Reduce existing impervious area by at least 50% of the redevelopment area; or
- 2) Implement other LID techniques to the maximum extent practicable to provide treatment for at least 50% of the redevelopment area; or
- 3) Use on-site structural BMPs to provide adequate treatment for at least 50% of redevelopment area; or
- 4) Any combination of impervious area reduction, other LID techniques, or on-site structural BMPs for at least 50% of redevelopment area.
- 5) Off-site structural BMPs to provide adequate water quality treatment for an area equal to or greater than 50% of redevelopment areas may be used to meet these requirements provided that the applicant satisfactorily demonstrates that impervious area reduction, LID strategies, and/or onsite structural BMPs have been implemented to the maximum extent practicable. An approved off-site location must be identified, the specific management measures identified, and an implementation schedule developed in accordance with local review. The applicant must also demonstrate that there are no downstream drainage or flooding impacts as a result of not providing on-site management for large storm events. To comply with local watershed objectives the mitigation site should be situated in the same subwatershed as the development and impact the same receiving water.

**f) Responsibility for Installation and Construction:** The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the provisions of

these regulations. Site development shall not begin before the stormwater management and erosion control plan receives written approval. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.

**g) Bonding:** The Planning Board may require a bond or other security in an amount and with surety conditions satisfactory to the Board, providing for the actual construction and installation of such measures within a period specified by the Planning Board and expressed in the bond or the surety.

**h) Plan Approval and Review:** The Planning Board shall approve the stormwater management and erosion control plan if it complies with the requirements of these regulations and other requirements as provided by law. Technical review of any stormwater management and erosion control plan prepared under these regulations shall be reviewed by a qualified professional consultant, as determined by the Planning Board, at the expense of the applicant.

**i) Maintenance and Inspection:**

1) After final Planning Board approval and as a condition precedent thereto, the owner of record of the property shall cause notice of the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans, as approved by the Planning Board, to be recorded at the Registry of Deeds sufficient to provide notice to all persons that may acquire any property subject to the stormwater management and sediment control plans. See RSA 477:3-a. The notice shall comply with the applicable requirements for recording contained in RSA 477 and 478. The notice need not set forth the requirements at length so long as it is sufficient to provide notice to prospective purchasers of the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board. The planning board may require routine inspections to ensure compliance with the Stormwater Management, Groundwater Protection, Impervious Surfaces, and Erosion and Sedimentation Control sections of these regulations. Such inspections shall be performed by a designated agent with appropriate certifications at reasonable times to the landowner.

2) If permission to inspect is denied by the landowner, the designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.

3) The installation and completion of all stormwater management and erosion control measures shall be completed prior to the issuance of any certificate of occupancy.

4) A set of As-Built Plans shall be submitted to the Planning Board within thirty (30) days of the completion of construction, before any certificate of occupancy can be issued. ~~A post-construction inspection will be scheduled as soon as possible after the As-Built Plans have been received.~~ If the Planning Board determines that the stormwater management and erosion control measures do not meet the above requirements or conditions of approval, the Planning Board may revoke the site plan at a properly noticed public hearing.

SECTION 17 - Site Plans shall be designed in such a manner to minimize the area of impervious surfaces, and address the potential negative impact of impervious surfaces on surface and groundwater resources.

The total overall impervious cover of a site shall not exceed 70%.

## **SECTION 18 - Parking**

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**A - Parking Spaces:** No structure hereinafter shall be erected nor shall any uses be established unless adequate off-street parking, loading, or unloading space is provided. The number of off-street parking spaces shall conform to the limits specified in the following table:

<i>Eating &amp; Drinking Establishments</i>	1 space for every 4 seats
<i>Manufacturing Facility</i>	1 space per 500 square feet of floor area
<i>Motels and Hotels</i>	1 space for every sleeping room
<i>Offices</i>	1 space per 250 square feet of floor area
<i>Places of Public Assembly</i>	1 space for every 5 seats
<i>Retail Business</i>	1 space per 300 square feet of floor area

**B - Parking Lot Dimensions:** Every parking space shall be a minimum of 9 feet in width, and 20 feet in length. Parking lot travel lanes shall be a minimum of 24 feet in width.

**SECTION 19 - Conditions of Approval:** The applicant shall submit letters from applicable utility companies confirming that the utilities depicted on the approved site plan meets the companies' specifications.

**SECTION 20 - Reimbursement:** The applicant shall reimburse the Town for the board's administrative expenses and costs of special investigation and the review of documents and other matters that may be required by particular applications. This includes, but is not limited to, review by consulting engineers or other consultants to assess the environmental impact, hydrological impact, ground water quality impact, traffic impact, or any other study deemed necessary by the Planning Board in order to make an informed decision.

**SECTION 21 – Waivers:** The planning board may only grant a waiver if the board finds, by majority vote, that:

(1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or

(2) Specific circumstances relative to the site plan, or conditions of the land in such

site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

**SECTION 22 - Other Fees:** No Certificate of Occupancy shall be issued until all outstanding bills associated with Planning Board Engineering fees are paid in full by the applicant, unless there are adequate funds held in escrow to cover these costs in accordance with NH RSA 674:44V.

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**SECTION 23 - Site Approval Expiration:** In the event that construction is not completed within two (2) years of the date that Site Approval is granted by the Planning Board, the Site Approval shall expire, unless extended by vote of the Planning Board.



# Construction Specifications for Residential Roadways

## I. Purpose

In order to promote the public's health, safety, and welfare, the express intent and purpose of these Standards is to provide for the construction and completion of roadways in every detail of the work these Standards describe. The following specifications and standards shall apply to the construction of roads, sidewalks, bridges, and street signs that will, or may, become Town maintained or accepted. Where strict adherence of compliance with these Standards would result in construction which is not in the best interests of the public, the Town may waive, or modify, portions of the Standards. It shall be the responsibility of the Contractor/Developer to obtain a waiver for any article of these Standards.

## II. Definitions

**The Work** – The furnishing of all labor, materials, equipment, and incidentals necessary or convenient to the successful completion of the roadway and associated sitework as shown and described on the approved drawings.

**Town** – The Selectmen, Planning Board, and/or their authorized representative assigned to observe the road construction and report to the Town on the acceptability of the Work. The Town's authorized representative may be an employee of the Town (ex. Road Agent or Building Inspector) or an outside consultant retained by the Town.

**Contractor/Developer** – The individual, partnership, firm, corporation, or any combination thereof is approved and permitted to construct, reconstruct or otherwise alter Town roadways.

**Engineer-of-Record** – The individual who is licensed to practice Civil Engineering by the State of New Hampshire and has overseen and is responsible for the design of the roadway.

## III. Preliminary Matters

### A. Submittals:

1. Roadway Bond Estimate – Prior to performing any work, the Contractor/Developer shall submit an estimate the total cost of labor and materials to construct the roadway. The Town will review and approve the amount of road bond.
2. Roadway Bond – Issuance of building permits will be dependent upon the Contractor/Developer providing a road bond of sufficient amount to complete the remaining road work including amounts for unforeseen consequences.

3. Drawings – The Contractor/Developer shall supply a minimum of four copies of the final and Town-approved construction plans for distribution to Town Departments and their agents. All plans shall be stamped with the Professional Engineer's seal of the Engineer-of-Record.
4. Road Inspection Fees – Prior to the start of construction, the Contractor/Developer shall provide fund to cover the cost of the Town's road construction inspection. Road inspection fees shall be assessed to the Developer as follows:
  - a. An amount equaling not less than five (5%) percent of the total roadway bond estimate shall be made payable to the Town Treasurer.
  - b. This fee shall cover the cost of a Town-appointed inspector who shall monitor and inspect improvements for compliance with approved plans and required construction standards.
  - c. Said five (5%) percent inspection fee shall be held in escrow by the Town for reimbursement of all inspection costs.
  - d. Any interest accrued by the escrow, plus ten (10%) percent of the total escrow amount, shall be claimed by the Town to offset cost incurred in administrating said escrow account.
  - e. Inspection by a Town employee shall be charged at regular or prorated hourly rate, plus benefits, plus one hundred (100%) percent for overhead.
  - f. Inspection by a Town's consultant shall be reimbursed on a time and expenses basis at the Contract rates agreed upon by the Town and the consultant.
  - g. Mileage shall be reimbursed at the customary IRS mileage rate from the inspection representative's office to the project site and back.
  - h. All costs incurred by the Town to insure the satisfactory construction of Town roadways are intended to be covered by this escrow. Said other costs may include attorneys' fees, soils specialists, materials testing, etc.
  - i. After satisfactory completion and acceptance of the bonded roadway, any remaining unused portions of the escrow shall be returned to the applicant after reimbursement of all outstanding costs and invoices.
  - j. If, due to conditions out of the control of the Town and its representative, additional inspection fees are required, said project inspection requirements shall be reassessed, and additional payment of escrow costs shall be required from the Contractor/Developer.
5. Erosion Control – Submit two (2) copies of the Storm Water Pollution Prevention Plan.
6. Permits – The Contractor/Developer shall supply the Town with a minimum of three (3) copies (including all permit conditions) of all State and Federal Permits associated with the Work.

**B. Access:** For the purposes of inspection and for any other purpose, the Town may enter upon the Work and the premises, and the Contractor/Developer shall provide safe and proper facilities. The Town shall be furnished with every facility for ascertaining that the Work is in accordance with the requirements and intention of this Contract, even to the extent of uncovering or dismantling portions of finished Work.

**C. Preconstruction Conferences:** Prior to any site construction, the Applicant shall be required to schedule and attend a preconstruction conference. Said conference shall be held at a mutually agreed upon location, and the following persons shall be invited:

- Selectmen;
- Town Planning Board or their designee;
- Town Road Agent;
- Town Building Inspector;
- Fire and Police Chiefs;
- Portsmouth Water Department.

All attendees shall receive a minimum seven-day advance notice of preconstruction conference scheduling. At the meeting, the Contractor/Developer and Engineer-of-Record shall present the plans for constructing the roadway, the construction schedule, and the scope of the construction.

#### **IV. General Responsibilities of the Contractor/Developer**

**A. Regulations and Permits:** The Contractor/Developer shall fully comply with all governing local, State, and Federal laws, codes, rules, regulations, and ordinances. The Contractor/Developer shall obtain and pay for all permits and arrange for necessary inspections and approvals from the authorities having jurisdiction. For the Town's records, submit copies of permits, licenses, inspection reports, certifications, and similar documents, correspondence and records established in conjunction with compliance with standards and regulations associated with the Work.

**B. Coordination:** The Contractor/Developer shall be fully responsible for coordinating all construction activities to assure efficient and orderly installation of each part of the Work. In general coordination duties shall include but not be limited to verifying dimensions and existing field conditions, coordinating construction operations, establishing on-site lines of authority and communication, monitoring schedules and progress, monitoring quality, maintaining records and reports, and, in general, assuring the proper administration of the Work.

**C. Supervision:** Construction Superintendent: The Contractor/Developer shall place and maintain a competent, experienced construction Superintendent/Foreman in charge of the Work on the job site at all times while work is in progress.

**D. On-Site Documents:** The Contractor/Developer shall provide the following in an accessible on-site location:

1. Complete, currently updated set of Town approved Drawings, Specifications, reviewed Shop Drawings, and other documents and samples.
2. Permits and notifications required by laws and regulations.

3. Product MSDS Sheets.
  4. List of Town's Representative, Engineer-of-Record, Building Inspector, Police, Ambulance and Fire Departments, Developer's/Contractor's Engineers, Engineer's Consultants, Surveyor, Project Manager, Superintendent, utility companies, and subcontractors. Include telephone numbers, emergency contact numbers, fax numbers, and e-mail addresses on the list.
- E. Safety:** The Contractor/Developer shall assume full responsibility for all means, methods, procedures, sequences and techniques of construction employed and shall take all measures required to ensure the safety of construction workers, as well as the safety of the general public. The Contractor/Developer shall take into full consideration and assure himself that all necessary barricades, fencing, and shoring are provided and that they comply with applicable regulations and standards of good practice. The public shall be guarded from all construction hazards and/or attractive nuisances. The Contractor/Developer shall pay all costs necessary for temporary partitioning, barricading, fencing, shoring, walks, ramps, enclosures, flashing lights, warning signs, security and safety devices required for the maintenance of a clean and safe construction site.
- F. Layout and Field Engineering:** The Contractor/Developer shall be responsible for all layout of all Work, even if such layout is done by others. The Contractor/Developer shall employ a licensed surveyor to layout roadway centerline and right-of-way monuments. The Contractor/Developer shall employ a qualified field Engineer or land surveyor to determine all lines and grades and to field-verify existing job conditions and measurements indicated on the Drawings. The Contractor/Developer's responsibility includes but is not necessarily limited to levels, control points, base lines, on-site bench marks, reference points, siting of building and other improvements, locations of components, fixtures, equipment, site improvements, etc.
1. The Contractor/Developer shall be responsible for costs of survey work including but not necessarily limited to establishing and protecting on-site bench marks, replacement or relocation of bench marks, additional base lines or levels, reference points, location of site improvements, verification of existing building dimensions, layout and floor elevations. All discrepancies shall be reported to the Engineer-of-Record for clarification.
  2. The existence and location of underground and other utilities and construction are not guaranteed. Before beginning sitework, the Contractor/Developer shall investigate and verify the existence and location of underground utilities and other construction. The Contractor/Developer shall also verify the location and invert elevation at point of connection of sanitary sewer, storm drainage, and water service piping, etc.
  3. The Contractor/Developer shall maintain a surveyor's log of control and other survey work. Record deviations from required lines and level, and advise the Engineer-of-Record when deviations that exceed indicated or recognized tolerances are detected and copy the Town on all correspondence. On Project Record Drawings, record deviations that are accepted and not corrected.

**G. Shop Drawings/Product Information:** At times the Contractor/Developer shall prepare working drawings consisting of details that are not included in the Plan Set approved by the Town. Manufacturers' engineering for prefabricated material may also supplement these drawings.

1. Two (2) copies of the Shop Drawings and manufacturers' data shall be submitted for review by the Town prior to constructing the work.
2. The drawings/data must be stamped and signed by the Contractor/Developer and the Engineer-of-Record signifying that they have been reviewed and approved by each.

**H. Protection of Adjoining Property:** The Contractor/Developer shall provide all shoring, fencing, and other work necessary to support, protect and keep unharmed all walls, footings, floors, roofs, walks, roadways, and all other parts of any existing buildings, facilities, site improvements, land forms, trees and plant materials, etc. The Contractor/Developer shall hold the Town and the Town's Representative harmless from any such damage due to any operations under this Contract. Any existing work or property damaged or disrupted as a result of this Contract shall be replaced or repaired to match original existing conditions. All costs for such repair shall be borne by the Contractor/ Developer.

**I. Utilities:** The Contractor/Developer shall send proper notices, make all necessary arrangements, and perform all other services required for the removal or the care, protection and maintenance of all utilities, including but not limited to mail boxes, fire plugs (hydrants), electric, gas, water, sewer, alarm, television, telephone, computer, poles and wires, and all other items of this character above or below the ground, on and around the building site, assuming all responsibility and paying all costs related thereto. Related services to any existing facilities shall not be disrupted without the prior approval of the Town, and then only to the minimum extent required. The Contractor/Developer shall comply with the "Underground Utility Damage Prevention System" by notification to DIG SAFE SYSTEM of intent to excavate near or around any underground utility installations. The Contractor/Developer shall call DIG SAFE SYSTEM at least 72 working day hours in advance of starting any such excavation.

**J. Traffic Regulations and Parking:** The Contractor/Developer shall properly regulate traffic at times when the Work interferes with the normal flow of traffic both on and off the site. Parking for workers on the project shall be limited to on-site areas. Parking for workers and equipment is prohibited along Town roadways. Roadways and driveways outside the limits of the Work shall be kept free of debris and dust resulting from construction related traffic.

**K. Roads and Access to the Site:** Access to the site for workers and the delivery or removal of construction materials and/or equipment shall be made only from locations approved by the Town. Existing roads, lanes, and other required fire access shall remain accessible to fire vehicles at all times. Hauling permits and route approvals shall be obtained from governing authorities as applicable.

**L. Dust Control:** During the progress of the Work, the Contractor/Developer shall, at all times, conduct his operations and maintain the area of his activities to prevent any dispersion of dust to abutting properties and/or public areas. A water truck shall be available for use at all times during dry weather. The truck shall have a gauge- equipped pressure pump and spray bar with nozzles.



**M. Dewatering:** The Contractor/Developer shall protect the Work, including but not limited to all excavations, trenches, buildings and materials from storm water, ground water, back-up of leakage of sewers, drains or other piping, and from water of any other origin and shall control, collect, and dispose of any accumulation of such water. Dewatering operations shall include but not be limited to:

1. Furnishing operating, and maintaining all pumps, piping, drains, and other equipment, including spare units available for immediate use in the event of equipment breakdowns.
2. Designing, Developer's/Contractor's Engineering, constructing, maintaining, and removing cofferdams, temporary underdrains, wellpoints, and all other systems necessary for dewatering.
3. Disposing of all water in a safe and proper manner, acceptable to Federal, State, and Town authorities.

**N. Shipping and Storage of Materials:** The Contractor/Developer shall be responsible for the proper protection from damage of all materials and equipment prior to and following their incorporation into the Work. Materials and equipment shall be inspected by the Contractor/Developer and, if found to be damaged or otherwise unsuitable, shall be promptly rejected.

## **V. Specifications**

**A. Standards:** All work included shall be done in conformity with the Town Road Construction Standards and with the applicable provisions of the State of New Hampshire Department of Transportation *Standard Specifications for Road and Bridge Construction* (SSRBC), approved and adopted, 2006, including all the latest revisions, addenda, and supplements, except as noted in Section 1.2 below. Copies of the *Standard Specifications* may be obtained from the New Hampshire Department of Transportation, Special Services Division, John O. Morton Building, Hazen Drive, Concord, New Hampshire. Approval by the Town shall mean approval by the Board of Selectmen, Planning Board, or their authorized agent. Where the Town's Standards conflict with the NHDOT Standards, or the Town-approved documents, the more stringent requirements shall apply.

1. Items of work under this Contract specified in the New Hampshire Department of Transportation *Standard Specifications for Road and Bridge Construction* shall include, but are not limited to, the following:

Section	Title
201	Clearing and Grubbing
202	Removal of Structures and Obstructions
203	Excavation and Embankment
206	Structure Excavation for Pipes and Other Minor Structures
209	Granular Backfill
214	Fine Grading
304	Aggregate Base Course
401	Plant Mix Pavements - General
403	Hot Bituminous Pavement
520	Portland Cement Concrete

593	Geotextile
603	Culverts and Storm Drains
604	Catch Basins, Drop Inlets, and Manholes
606	Guardrail
608	Sidewalks
609	Curb
614	Electric Conduit
615	Traffic Signs
628	Sawed Pavement
641	Loam
642	Limestone
643	Fertilizer for Grasses
644	Grass Seed
645	Erosion Control
646	Turf Establishment
650	Planting – General

2. Products: Products and materials are as specified in the applicable sections of the New Hampshire Department of Transportation *Standard Specifications for Road and Bridge Construction*.

**B. Clearing & Grubbing:** Prior to the start of any site disturbance including clearing and grubbing, the Town's authorized agent shall be given a seven (7) day notification before construction of any roads or streets begin.

1. This work shall include clearing and grubbing to a minimum depth of two feet below existing grades across the full width of the roadway and replacement of unsuitable material with clean, well draining, granular material.
2. This work shall include the removal and disposal of all stonewalls and fences within the right-of-way except as noted in the following Paragraph 3.
3. Work shall include the preservation from injury or defacement of all vegetation, stonewalls and objects designated by the Planning Board to remain.
4. All stumps, large roots and any organic material within the right of way shall be completely removed.
5. All stumps shall be excavated and removed in accordance with RSA 149M.1 and Town regulations regarding same.
6. Stumps shall not be removed until the developer presents an approved removal and disposal plan. Any on-site disposal areas shall be recorded on the As-Built Plans.
7. All debris shall be disposed of outside of the road right of way.

**C. Subgrade:** The subgrade of the roadbed shall be constructed to the required width, grade and cross section as shown on the typical section on file with the Planning Board.

1. All testing of embankments, i.e.; gradation, compaction, etc. shall be performed by an independent testing laboratory approved by the State to perform such test and shall be paid for by the Contractor/Developer.
2. Upon completion of subgrade, the proposed centerlines shall be laid out, finish grades marked and offsets set by a registered land surveyor on the centerlines of all roads and submitted for approval. Layout stakes shall be set at every 50 foot station.
3. Prior to placing any gravel base courses, the Town or its authorized shall be notified with seven (7) day notice of the subgrade completion. The Town or its agent shall inspect proof rolling of the subgrade and either approves said subgrade as suitable for placing gravel base or deny subgrade with appropriate reasons recorded. The Engineer-of-Record shall determine the compensatory measures to strengthen the subgrade.

**D. Underdrains:** Underdrains shall be provided along road shoulders in all areas where the depth from road surface to seasonal high groundwater is less than four (4') feet. The pipe shall be six (6") inch diameter, perforated PVC or HDPE, surrounded by six (6") inch minimum of crushed stone. Non-woven geotextile shall encase the crushed stone. The underdrain shall have a minimum pitch of one (1%) percent and outlet to daylight at a concrete headwall or into a catch basin.

**E. Fill:** Common fill material shall be of suitable nature with no stumps, roots, sod, or frozen lumps permitted. All excavation and embankment shall be brought within required lines and grades. Fine grading of the subgrade shall be within  $\frac{1}{2}$  "of the final grade.

1. Suitable material shall be free of debris, pieces of pavement, organic matter, topsoil, wet or soft muck, peat, clay, silt and all excavated ledge or rocks over 9" in its largest dimension. Suitable material for reuse shall be approved by the Planning Board or its designated agent. All suitable material shall have no greater than fifteen (15%) percent of its total weight passing a #200 sieve.
2. Earth excavation shall consist of all material not classified as rock or ledge. Any suitable material as defined above may be used to flatten slopes where possible.
3. Earth fills shall consist of all suitable material other than rock or ledge. The soil shall be placed in not more than 12" layers with 95% modified proctor compaction before successive layers are placed. No earth embankment shall be constructed on frost or include frost in the fill material.
4. Rock excavation to the required subgrade, shall consist of removal of all solid rock or ledge which requires for its removal; drilling, blasting, wedging, or sledging. In roadways, rock removal shall be to a depth of 3'-0" below roadway finish grade.
5. Rock fills shall consist of solid rock placed in not more than 2'-0" lifts. Rocks shall be placed to the best advantage of roadway construction. All rock fill plans, under roadways, shall be designed and stamped by the Engineer-of-Record and shall incorporate use of a filter fabric or material to control particle migration between road bedding and rock embankment.

6. All fills shall be compacted in accordance with the NHDOT *Standard Specifications* to ninety-five (95%) percent of the soils Standard Proctor value.

**F. Drainage:** All drainage construction shall conform to the following regulations at a minimum.

1. All roadway culverts shall be reinforced concrete pipe Class IV or V. ADS pipe is also acceptable for all burial depths between two feet and eight feet. Pipe shall be bell & spigot or tongue & groove type with elastomeric oil resistant compression ring jointing. All pipes shall have a minimum cover of 2 feet. Minimum culvert size shall be 12".
2. Headwalls conforming to NHDOT Standards or otherwise approved by the Planning Board shall be constructed at the ends of all pipes which drain to the surface of the ground.
3. If it is discovered that there are wet areas, swales, etc. which are not handled by culverts shown in the drainage plan, additional culverts shall be installed as required and at the Contractor/Developer's expense. All swales must discharge to a positive outlet.
4. Catch basins, grates and frames shall conform to NHDOT Standards. There shall be no tees or angles in pipes, all such connections must occur at basins or manholes. The maximum run for any gravity pipeline shall be three hundred (300') feet.
5. All drains shall be bedded on six (6") inches of  $\frac{3}{4}$ " crushed stone (12-inch thick bed on bedrock). Stone shall extend to the centerline of the pipe. Sand backfill shall be provided to twelve (12") inches (minimum) over top of pipe. All trench backfill shall be compacted in twelve (12") inch (maximum) lifts.

**G. Base Course Gravels:** Gravel base course shall be placed in twelve (12") inch maximum lift compacted to ninety-five (95%) percent of the Standard Proctor density shall be constructed on the approved subgrade in accordance with the currently used NHDOT *Standard Specifications*. The width and depth of the gravel base shall be in accordance with the typical section on file with the Planning Board.

1. A crushed gravel base course containing no stone larger than one and one-half ( $1\frac{1}{2}$ ") inches in diameter shall be constructed on the approved bank run gravel base. This shall be placed in a six (6") inch lift and compacted to a 95% of the Standard Proctor density.
2. All compaction shall be for the full width of the roadway and shoulders and shall be done with water and machinery designed for that purpose.
3. Scarification of any or all layers may be required to determine the existence of large or unsuitable objects.

**H. Pavement:** The construction of Bituminous Concrete Pavement and materials used shall be in accordance with the currently used NH DOT *Standard Specifications for Highway and Bridges*.

1. Bituminous concrete pavement shall be constructed in two courses as shown on the typical section. Minimum two and three-quarter ( $2\frac{3}{4}$ " ) inch base course (using  $\frac{3}{4}$ " stone), minimum one and one-quarter ( $1\frac{1}{4}$ " ) inch top (using  $\frac{1}{2}$ " stone) as measured after compaction. Base course must be in place within one year of crushed gravel. Wearing course shall not be placed any sooner than six months or one winter after the base course, unless approved otherwise by the Planning Board, or its designated agent. Also, wearing course shall not be placed before eighty-five (85%) percent build out of subdivision.
  2. A maximum surface tolerance of one-quarter ( $\frac{1}{4}$ " ) inch ten (10') feet in any direction from the specified slope will be allowed.
  3. Weather Limitations: Quality of asphalt mixtures is closely related to the temperature of the mix. Mixtures shall be placed only when the underlying surface is dry, frost free, and the surface temperature is above 40°F for courses greater than or equal to  $1\frac{1}{2}$  in compacted depth and above 50°F for courses less than  $1\frac{1}{2}$  in compacted depth. The Town may permit, in case of sudden rain, the placing of mixture then in transit from the plant, if laid on a base free from pools of water, provided all other specifications are met. No load shall be sent out so late in the day that spreading and compaction cannot be completed during the daylight. If rapid surface cooling of the laid down mix is occurring due to wind, the Town may suspend operations for the day. Wearing course shall not be scheduled for placement after October 1<sup>st</sup> of any year without written approval by the Town. If it is determined to be in the best interest of the Town to schedule placement after October 1<sup>st</sup>, the above specified weather and surface conditions shall remain in effect.
  4. Bituminous concrete pavement shall be supplied and applied by a State-approved paving contractor in accordance with the latest edition of NHDOT *Standard Specifications for Road and Bridge Construction*.
  5. Base course shall be NHDOT  $\frac{3}{4}$ " base mix. Wearing course shall be NHDOT  $\frac{1}{2}$ " finish mix.
  6. No Certificate of Occupancy shall be issued by the Town until roadway is constructed up to and including the base course of asphalt.
- I. Guardrails:** On all fill sections in excess of four (4) to one (1) slope with a vertical drop of four (4') feet or greater, or at other hazardous locations, guardrails will be installed in accordance with the current NHDOT *Specifications*.
1. Guardrail shall consist of pressure treated wood post and spacer block with steel "W" beam.
  2. Terminations shall be designed and specified by the Engineer-of-Record.



**J. Loam & Seed:** Topsoil shall consist of a loose friable with no ad mixture, refuse, or material toxic to plant growth. Topsoil shall be free from stones, lumps, stumps, or similar objects larger than two (2") inches in greatest diameter. Prior to stripping material to be used as topsoil, it shall have demonstrated by the occurrence upon it of health crops, grass or other plant growth, that it is of good quality and reasonable from drainage. All topsoil material shall be approved for use by the Planning Board or its designated agent. All disturbed areas shall receive a minimum four (4") inch layer of approved topsoil.

1. All disturbed and graded areas shall be seeded with the Rockingham County Slope mix (USDA approved) at the rate of 65 lb. per acre.
2. All seeded areas shall be fertilized with an analysis of 5-10-10 and be applied at the rate of fifty (50 lb.) pounds per one thousand (1,000) square feet.
3. All seeded areas shall be mulched within twenty-four (24) hours of seeding. A good quality mulch hay shall be used and applied at the rate of two (2) tons per acre.

**K. Signs:** Signs with names of streets conforming to standards of the Town shall be erected. All stop signs and traffic control signs, as required, shall be placed as well. House delineator signs as required and deemed necessary by the Fire Department shall also be installed.

1. Street name signs shall be independently supported, not fastened to utility poles.
2. Street name signs shall consist of nine (9") inch aluminum extruded blanks with six (6") inch white letters on a green background.
3. Delineators are required at the end of guardrails with red reflectors at the beginning, green reflector at the end and silver reflectors in middle, every fifty feet (50').
5. **Striping:** Paint shall be ready-mixed Traffic Paint as specified in NHDOT *Standard Specifications*.

**L. Driveways:** The Contractor/Developer shall construct all portions of driveways within the proposed Town right-of-way at the same time as the road is constructed except as otherwise approved. Where driveway culverts are required they shall be a minimum of ten (10") inch diameter twenty (20') feet long, made of corrugated, smooth wall HDPE or concrete. Headwalls conforming to NH DOT regulations shall be installed both ends of all culverts. The driveway shall slope away two (2%) percent from the road for twenty-five (25') feet from edge of pavement. The driveway shall be paved from lot line to edge of highway pavement with a minimum of two (2") inch hot bituminous pavement.

1. A minimum sight distance of two hundred (200') feet shall be required for all proposed and newly installed driveways
2. Only one driveway entrance per lot is permissible. There shall be only one point of access/egress per lot.

3. Driveway culvert headwalls constructed of stone rubble and mortar and conforming to NHDOT *Standard Specifications* shall be installed at both ends of all culverts. The top of the headwall shall be constructed slightly below the elevation of the driveway. The width shall be determined by the depth of the culvert.
4. The driveway shall slope away from the edge of the paved roadway at a slope of two (2%) percent for a distance of twenty-five (25') feet, and be paved to the depth of two (2") inches from the existing road pavement edge to the applicant's property line.
5. All driveways shall intersect the Town's roadway at a perpendicular angle to the centerline of each.

**M. Curbing and Sidewalks:** If required, curbing shall be granite; sidewalks shall be bituminous concrete and constructed in accordance with the NHDOT *Standard Specifications*. The curb reveal shall be a minimum of six to seven (6" to 7") inches above finished pavement grade.

1. Bituminous sidewalks shall be two and one-half (2½") inches consisting of one and one-half (1½") inch thick binder and one (1") inch thick wearing course.
2. Sidewalks shall be founded upon twelve (12") inches of crushed gravel compacted to 95% of its Standard Proctor density value.

**N. Utilities:** All utility lines shall be placed in underground in the street right-of-way or in dedicated easements. Wherever possible, underground services will be placed under grassed areas rather than paved areas.

1. Conduit Duct System: The Primary Electrical and Communication Duct System shall be made up of four (4), four (4") inch, schedule 40, PVC conduit, buried to a depth of not less than thirty-six (36") inches.
  - a. For electrical conduits, the duct system shall, at a minimum, meet the standards set forth in Public Service Company of New Hampshire's Construction Specifications for Underground Conduit Systems, latest revision, as well as the standards detailed in these regulations. The stricter standard(s) shall govern.
  - b. Conduit installed under road pavement, and within six (6') feet of the road pavement edge, shall be encased with a minimum of three (3") inches of concrete. All other conduit shall be embedded in six (6") inches of select compacted sand. The conduit duct system shall be approved by PSNH.
  - c. Pull rope shall be installed in all conduit for future pulls. Pull rope shall be nylon rope having a minimum tensile strength of three hundred (300 lbs.) pounds. A minimum of twenty-four (24") inches of rope slack shall remain at the end of each duct.
  - d. All conduit terminations shall be capped to prevent debris from entering conduit.

- e. The Secondary Electrical and Communication Duct System shall be made up of three (3), four (4") inch, schedule 40, PVC conduit and shall be extended to each buildable lot prior to road surfaces being put in place. Conduit shall be extended onto each lot no less than ten (10') feet.
  - f. Reinforced concrete handholes of appropriate size (typically 4x4 – 4/4) with labeled manhole covers shall be used where deemed appropriate by the local power, telephone, and cable companies, subject to final approval by the Planning board, e.g. at telephone and cable distribution pedestals. Handholes shall not be located in paved areas.
  - g. Conduit spacing: Power conduit shall be spaced a minimum of six (6") inches from other conduit or as the National Electric Safety Code permits, whichever is greater. Conduit shall be supported in place using pipe support stanchions spaced every five (5') feet. Conduit termination locations shall be clearly marked at the site and on as-built/record drawings.
  - h. Conduit shall be installed with a maximum of one hundred eighty (180°) degrees of bends between pull points, or as approved by the local utility companies.
  - i. An electrical and communication duct system plan shall be approved by the local power, cable, and telephone companies prior to submission to the Planning Board.
- 2. Street Light Service Enclosures: At locations where the requirement for street light installation is waived by the Planning Board, service enclosures shall be installed along the underground electric system in order to facilitate the installation of street lights in the future.
  - 3. Water Service shall be extended to each buildable lot prior to road surfaces being put in place.

## VI. Testing

- A. Testing Laboratory:** The Contractor/Developer shall provide a qualified independent testing laboratory with personnel who are thoroughly trained and experienced with the sampling and testing of soils and asphalt. All costs associated with sampling and testing shall be borne by the Contractor/Developer.
- B. Inspection Milestones:** The Town shall require all roadways under construction to be inspected by the Town's designated agent.
1. Mandatory inspections shall be scheduled for each of seven construction milestones plus miscellaneous progress inspections, at a minimum. The Contractor/Developer shall identify names of all roadways for approval by the Planning Board.
  2. Mandatory minimum inspection milestones shall be as follows:
    - Pre-clearing and grubbing
    - Post-clearing and grubbing
    - Subgrade
    - Bank Run gravel
    - Crushed gravel
    - Paving – both courses
    - Completion
- C. Subgrade Testing:** Prior to the start of placing fill or gravels, the soil subgrade shall be proof rolled with a fully loaded tandem axle dump truck. Any unstable areas encountered shall be excavated and replaced with compacted granular fill.
- D. Earth Fill Testing:** Sampling of granular fills shall be from on-site stockpiles at the minimum rate of one sample per 400 CY. Each sample shall be tested for maximum density and gradation. The maximum density of each sample shall be determined by test method AASHTO T 99 (Standard Proctor Test). The in-place density determination shall be made by AASHTO T 310 (Nuclear Methods). In-place density tests shall be performed at the minimum rate of one test per 50 CY. The testing procedure for gradation of each sample shall be in accordance with AASHTO T 27.
- E. Base Gravels Testing:** Road base gravels shall be tested at the same frequency and test criteria as earth fills.
- F. Notification:** To permit the Town to witness inspections where the Town so desires, notify the Town not less than forty-eight (48) hours in advance when inspection will, or will not, be performed as scheduled.
- G. Alternative Inspection Procedure:** The Town shall have the right to require alternative inspection procedure other than those specified when, in the Town's opinion; such is required to demonstrate compliance with this Standard's requirements.
- H. Test Reports:** All test reports shall be signed by the testing laboratory's individual so authorized in the testing plan approved by the Town. Copies of all test reports shall be provided to the Town.

## VII. Construction Close-Out

**A. As-Built Plans:** After completion of the wearing course of asphalt and all slope work, the Contractor/Developer shall submit "as-built" plans which shall include but not be limited to the following:

1. Plan view, including all right of way and easements, road names, adjoining property boundaries with lot number, edge of shoulder, drainage, utilities, driveways, culvert invert elevations, underdrain locations, stump disposal areas, and other special features requested by the Town.
2. Profiles of all roads.
3. Signed statement from Engineer-of-Record that the roads were constructed according to the design as approved and to these regulations listing any exceptions and stating they pose no threat to public health and safety and are of equal or better quality than originally designed.
4. Seal of licensed land surveyor preparing plan.
5. "As-Built" plans must be updated if any additional work is performed.

**B. Town Acceptance:** The Town will not perform any maintenance on any road, including snow plowing, until the road is accepted by the Town. In order to obtain maintenance acceptance, the following items must be satisfactory completed.

1. Road construction must be substantially complete except for the wearing course of pavement. All incomplete items must be bonded.
2. All subdivision, impact, and inspection fees must have been paid.
3. Full "As-Built" plans, including profiles and engineer's statement, must have been received and approved.
4. A maintenance bond or maintenance agreement for two years after substantial completion to cover latent defects must have been received.
5. A copy of the highway plan and a deed transferring the right-of-way to the Town of must be recorded at the Rockingham County Registry of Deeds.
6. Vote of the Board of Selectmen to accept the completed and dedicated roadway.

**C. Driveways:** Driveways not completed at the time of Certificate of Occupancy issuance shall require the owner to provide the Town with a cash bond to cover unacceptable or incomplete driveway construction prior to certificate release. Said cash bond shall be based at a minimum on the following stipulated values:

Pavement Completion .....	\$1,000
Culvert Completion .....	\$1,000
Headwall Completion.....	\$1,000
Excavation & Filling.....	\$ 500
Loam, Seed, & Establish Growth .....	\$ 500



# Design Review Guidelines

## ARTICLE 1 – *Building Design*

*It is the intent of this article to encourage buildings that are rich in authenticity, design interest and quality. These guidelines are for use by the applicant and for consideration in site plan review.*

**SECTION 1 – Building Materials:** The use of textured materials such as split face block, sandblasted concrete, wood, and the like is encouraged. Wood or dark anodized window framing is encouraged to add depth and richness to the appearance of a building. Brighter colors should be limited to accent points rather than large masses.

**SECTION 2 – Compatibility With Nearby Development:** In areas with an established or developing design character, new buildings should be designed to complement the prevailing design character. This concept would apply to everything from additions to shopping centers to the construction of small apartments and commercial Buildings.

**SECTION 3 – Building Additions:** An addition to an existing building should be designed to reflect and blend with the existing design of the structure.

**SECTION 4 – Rehabilitation of Older Buildings:** The rehabilitation of an older building should generally be done with an eye toward restoring the original architecture of the building, rather than covering it over with a new style.

**SECTION 5 – Design Consistency:** Coordinate exterior building design features on all elevations open to view from both public areas and adjacent properties.

**SECTION 6 – Breaking Up Wall Masses:** Large wall masses that are otherwise devoid of architectural treatment should be visually enhanced with such architectural features as reveals, bands of contrasting textures, pilasters or the like.

**SECTION 7– Colors** should be generally limited to the softer and more subtle hues. If bright colors are to be used, they should be limited to well integrated accent points. Usually no more than two or three colors should be used.

**SECTION 8 – Utilities and Mechanical Equipment** should be screened. Screening should be designed so as to complement the building. For durability reasons, wooden screens are not acceptable.

**SECTION 9 – Sign Integration:** Commercial building elevations should be designed with space for the logical and integrated placement of signs.

# ARTICLE 2 – *Site Design*

*It is the intent of this section to encourage site design that is functional, attractive and serves the needs of all users.*

**SECTION 1 – Parking:** Whenever possible, locate parking areas at the rear or side of the site with buildings and landscaping emphasized at the front of the site.

**SECTION 2 – Natural Settings:** Construction in environmentally sensitive areas such as hillsides should be designed to blend with the natural vegetation and land forms. Rock outcroppings, plants, ridgelines and slopes should be preserved to the maximum extent possible.

**SECTION 3 – Existing Trees** can add measurably to the appearance of a development. Projects should be designed so as to preserve existing trees.

**SECTION 4 – Parking** should be screened from adjacent streets with low shrubbery, mounding and/or low decorative walls.

**SECTION 5 – Pedestrian Network:** Link building pads with pedestrian walkways that are defined by separate paving textures and accented with planters.

**SECTION 6 – Textures:** Use varied paving textures and or elevation changes to define entrances, pedestrian areas, crosswalks etc., especially where such can be viewed from multi-story buildings.

**SECTION 7 – Traffic Flow:** Design entrances and exits so that parking spaces and internal access aisles do not conflict with entering and exiting traffic.

**SECTION 8 – Landscaping:** Greenery and trees can do much to make a site inviting. Provide for a complete distribution of landscaping throughout the project site, especially:

- Throughout the interior parking areas, in the form of parking row end planters and 6' x 9' center planters every 5-6 parking spaces;
- At the base of building walls and dumpster enclosures; and
- Around the perimeter of the site to allow for mounding, shrubbery and trees sufficient to soften and enhance the view to the site.

**SECTION 9 – Dumpsters:** Incorporate one or more trash enclosures into the site design in areas accessible to trash trucks, but not prominently open to view.

# ARTICLE 3 - *Sign Design*

*It is the intent of the following sign policies to encourage sign work that is low key and well integrated with the site and buildings where the sign or signs are to be placed.*

**SECTION 1 – Relationship to Building Architecture:** A sign should be designed so as to complement the architecture of the building on or near which it is placed with respect to design, colors, materials and placement.

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**SECTION 2 – Relationship to Site:** A freestanding sign should be of a design and placement that complements the design of the site.

**SECTION 3 – Sign Coordination:** Signs that are placed on multiple tenant buildings look best when they follow a coordinated theme.

**SECTION 4 – Simplicity of Design:** Signs should be designed so as to be composed of a simple, uncomplicated shape.

**SECTION 5 – Monument Signs** are preferred over pole signs. Monument signs are more attractive and more readable along city streets where the attention of most drivers is focused at eye level. If a pole sign must be used, design an attractive, yet simple, pole cover to reduce the starkness of a bare pole.

**SECTION 6 – Sign Copy:** Signs are most readable and attractive when the copy is limited to the name of the business. Slogans or the advertising of products and services are discouraged. If they must be present, no more than 5 to 10% of the sign copy area may be devoted to such copy and made an integral part of the sign design.

**SECTION 7 – Poles & Cabinets:** Structural aspects of signs, such as poles, supports and cabinets, should be painted a dark earth-tone color so as to deemphasize the presence of these "mechanical" elements. Sign poles are best enclosed in a simple pole cover.

**SECTION 8 – Illumination:** Lighting on interior lighted signs should be limited to a soft level sufficient to illuminate the sign, but not so bright as to produce glare. This can either be accomplished by using an opaque background, or by limiting illumination.

# ARTICLE 4 – *Landscape Design*

*It is the intent of the following guidelines to encourage landscape work that provides shade and comfort for parking and open space areas and enhances the appearance of a project site with a balanced mix of trees, shrubs and groundcovers, commensurate with reasonable maintenance requirements.*

**SECTION 1 – Plant Variety:** Make use of an abundant variety of plant materials including trees, shrubs and groundcovers that are suited to Newington's harsh climate. Mixtures should include both evergreens and deciduous plants. Use plants offering leaf texture and color variety to add interest to the site.

**SECTION 2 – Project Enhancement:** Use plant materials creatively to keynote entries, soften or reinforce building lines, and to draw attention to important features.

**SECTION 3 – Softening Hard Lines:** Use plant materials at the base of building walls and property line walls to soften the hard edge between paving surfaces and wall surfaces.

**SECTION 4 – Buffering Undesirable Views:** Use trees, shrubs and mounded groundcover areas to soften the view to such unattractive areas as parking lots, loading areas, trash enclosures, storage areas, transformers and the like.

**SECTION 5 – Non-Plant Materials** or simulated plant materials such as plastic plants or turf is not generally acceptable.

**SECTION 6 – Street Trees:** Coordinate street tree plantings with on-site landscaping.

**SECTION 7 – Plant Protection Devices:** Planter beds in parking areas must be protected by 6" wide curbing that extends at least 6" above the paving surface. All trees should be securely staked with double staking and/or guy-wires.

# Historic District Regulations

**SECTION 1 - Purpose:** Pursuant to RSA 674:46, this ordinance is established for the following purposes:

**A** - For the preservation of places and structures of architectural value and the heritage of the municipality which reflects its cultural, social, economic, political and architectural history;

**B** - Conserving property values in such Districts;

**C** - Promoting the use of the Historic District for the education, pleasure and welfare of the citizens of the municipality.

## **SECTION 2 - Designated Areas:**

**A** - Beginning with both sides of Nimble Hill Road from the Air Base Line to its junction with Little Bay Road, the area to follow existing property lines of parcels fronting on said road.

**B** - All land and buildings leased from the State of New Hampshire at Bloody Point.

**SECTION 3 - Procedure:** All construction, alteration, or demolition of buildings within the Historic District shall require the prior approval of the Historic District Commission. Routine maintenance, such as repainting, is specifically exempted from this requirement.

**SECTION 4 - Standards:** In reviewing proposed construction, alteration or demolition, the Historic District Commission shall determine the proposal's compatibility with the surrounding area, basing their decision on the following criteria:

**A** - The special character of the area.

**B** - The historical or architectural value of the building and its setting.

**C** - The compatibility of the proposed design, arrangement, texture, and materials with existing buildings and the surrounding area.

**D** - The general size and scale of new construction in relationship to the existing surroundings, including consideration of such factors as the building's overall height, width, street frontage, setbacks, number of stories, roof type, facade, windows, doorways, and architectural details.



# Driveway Regulations

In accordance with NH RSA 236:13V, no driveway shall be constructed along a (class V) Town Road, nor shall any driveway be altered at its intersection with a Town Road, unless prior to such construction or alteration, a Driveway Permit has been issued by the Newington Planning Board or its designated agent.

All such driveway construction/alteration shall meet the following minimum standards:

- 1) Minimum driveway width shall be 10 feet.
- 2) No driveway shall be situated within 15 feet of an abutter's property line.
- 3) No residential lot shall have more than one driveway entrance or exit along a Town Road.
- 4) Stormwater drainage shall not be impeded. Provisions for the accommodation of stormwater shall be subject to the approval of the Planning Board or its designated agent.
- 5) There shall be a clear line of sight from the end of the driveway, along the Town Road, for a distance of 100 feet.
- 6) Driveways that are expected to handle commercial traffic on a regular basis shall be built to a standard that will, in the judgment of the Planning Board or its designated agent, handle such heavy vehicles.
- 7) Driveways shall not be constructed in locations which, in the judgment of the Newington Planning Board or its designated agent, would pose a threat to public safety.
- 8) No driveway shall serve more than one residential building.

9) A Stabilized Construction Exit, at least 6" deep, 75' long, and as wide as the driveway (comprised of crushed stone), or 3" deep, 40' long, and as wide as the driveway when used in conjunction with a stabilization mat, shall be installed at the foot of the driveway prior to construction of a new residential structure. During residential construction, all roads shall be cleaned of debris and sediment on a daily basis.

Stone Gradation Table	
Sieve Size	% passing by weight
3"	100
1½"	90 to 100
1"	20 to 55
¾"	0 to 15
3/8"	0 to 5

The exit shall be maintained in a condition which will prevent tracking or flowing of sediment onto public rights-of-way. This will require periodic top dressing with additional stone or length as conditions demand and repair and/or clean out of any measures used to sediment. All sediment spilled, dropped, washed or tracked onto public rights-of-way must be removed immediately.

10) The Planning Board may waive these regulations for good reason shown.

## Revisions to Newington's Zoning Since 1983

Date	Description
3/8/83	Change <i>width</i> to <i>frontage</i>
3/8/83	Delete <i>width</i>
12/19/83	Rezone 9.9 acre Beane Farm from Industrial to Business
3/12/85	Extend WI District to River Road north of Patterson
3/12/85	Expand Patterson buffer from 250' to 400' northerly
3/12/85	Change dimen. in I & WI to 10 acres, 75', 50' & 500'
3/12/85	H District gets same protection as R District
3/11/86	Clarify B/R boundary near Flagstones
3/11/86	Height in I Zone subject to Planning Board approval
3/11/86	Remove 450,000 square foot malls as a permitted use
3/11/86	Permit watchmen, caretakers & janitors in B Zone
3/10/87	Delete obsolete definitions
3/10/87	Delete map scales...
3/10/87	Delete undue hardship...
3/10/87	Delete pending applications...
3/10/87	Refine caretaker provisions in B Zone
3/10/87	Delete Section 1 re: setbacks
3/10/87	Delete Article X re: BOA
3/10/87	Delete Article XI re: Amendments
3/10/87	Replace old sign ordinance with new one
3/8/88	Prohibit retail
3/8/88	Define retail
3/8/88	Reduce lot size in I & WI Zones from 10 to 5 acres
3/8/88	Driveways shall be a minimum of ten feet in width
3/8/88	Minimum frontage in R & B Zones to be continuous
3/8/88	Establishes minimum parking requirements
3/8/88	Wetlands Overlay District adopted
3/14/89	Permit churches in B Zone, but prohibit them in R Zone
3/14/89	Reduce minimum frontage in I & WI from 500' to 100'
3/14/89	Increase Bldg Fees in the B, I & WI from \$2 to \$4 per thousand
3/14/89	Establish the NRP, A & AI Districts at Pease
3/14/89	Specify uses in the NRP, A & AI Districts
3/10/92	Revise definition of <i>wetlands</i>
3/10/92	Revise definition of <i>variance</i>
3/10/92	Establish Light Industrial and Mobile Home Districts
3/10/92	Specify uses in the LI & MH Districts
3/10/92	Extend Historic District to include Stone School & Town Forest
3/9/93	Delete <i>primarily</i> from retail definition
3/9/93	Add parking space dimensional requirements
3/9/93	Delete <i>multiple purpose use of buildings</i> from B District
3/8/94	Delete B district, and replace it with C, O & M districts
3/8/94	Add articles on air & traffic mitigation

3/8/94	Add article on signs
3/8/94	Add article on sexually oriented businesses
3/8/94	Revise definition of <i>nursing home</i>
3/8/94	Revise dimensional requirements
3/8/94	Reformat ordinance
3/14/95	Extended parking flexibility to entire town
3/14/95	Established parking standard for industry
3/14/95	Adopted standards for Special Exceptions
3/14/95	Restored hotels & motels as permitted uses in the C Zone
3/14/95	Duplexes to be a permitted use, and revised def. of "dwelling".
3/12/96	Rezoned 113 Beane Lane (Tax Map 6 Lot 5) from M to R
3/11/97	Prohibited nursing homes & hospitals in the R Zone
3/11/97	Added definitions for non-conforming lots, uses & structures
3/11/97	Expressly permitted agriculture throughout the R Zone
3/11/97	No more than one building per lot
3/11/97	Art. I: provide protection from sight, light, sound, odor, dust, etc..
3/11/97	Art. III: narrative description of zoning boundaries required
3/10/98	Article XIII re-written re: non-conforming properties
3/10/98	Article XIV added re: telecommunication facilities
3/10/98	Special Exception provisions removed from Article V Residential District
3/10/98	"any one conductor" removed from neon sign provisions in Article XI
3/9/99	Building fee schedule moved from Article XV to Building Code
3/13/01	Extended Office Zone southerly along Woodbury Ave to Bank of NH
3/13/01	Re-zoned rear of Beane Farm to Industrial
3/13/01	Defined ICR
3/13/01	Adopted ICR Overlay District
3/13/01	Added warehouses & facilities for disabled to O Zone's permitted uses
3/13/01	Capped the size of signs on the sides & rears of bldgs: 75sf, 25sf, and 4sf
3/11/03	Trailer & Mobile Storage Container article adopted
3/9/04	Eliminated restaurants & motels as permitted uses in the Office Zone
3/9/04	Retail definition expanded to include sale, rent or lease
3/9/04	Vehicle Dealers (sale, rental or leasing) permitted in Commercial Zone
3/9/04	Complete overhaul of Article X Wetlands
3/8/05	Conference centers & 3-story hotels become permitted uses in Office Zone
3/14/06	Docks, detached stairs & paved driveways not to be considered structures
3/14/06	Sex Business permitted only in the Commercial Zone
3/14/06	Home occupations & business regulations adopted
3/14/06	Floodplain management regulations adopted
3/13/07	Schools no longer permitted in the Residential Zone
3/13/07	Lighting & Illumination article adopted
3/11/08	Bed & Breakfast Inns permitted in Residential Zone
3/10/09	Small Wind Energy Systems regulations adopted
3/9/10	Travel lanes in parking lots to be maximum of 24' in width
3/9/10	Exemption for parking lot wetlands setback deleted
3/8/11	Parking requirements moved to site plan review regulations

3/13/12	Clarified the definition of "frontage"
3/13/12	Revised setbacks for sexually oriented businesses
3/12/13	Subjected mobile towers to regulation in Article XV
3/12/13	Permitted 16sf agricultural signs with no limit on duration
3/12/13	Home business signs may be situated as close as 20' to roadway
3/10/15	Updated floodplain regs per FEMA requirements
3/10/15	Removed reference to educational & religious facilities in residential zone
3/10/15	Allow hospitals, nursing homes, schools, conference centers, and facilities to treat developmentally disabled in Commercial Zone, but not Office Zone
3/10/15	Refined definitions of frontage and setbacks
3/10/15	Driveways require Special Exception
3/10/15	2-family dwelling requires 45,000 sf of contiguous upland
3/08/16	Reorganization and update of the Newington Zoning Ordinance
3/08/16	Accessory Dwelling Unit defined and allowed as a Permitted Use in the Residential District.
3/08/16	Bed & Breakfast defined and limited to four units.
3/08/16	New Article III PDA zoning district which consolidates the four existing Pease Zoning districts into one entitled Pease Tradeport district and recognize the Authority of RSA 12-G:13.
3/08/16	General Industrial I-add residential uses for a watchman, caretaker or janitor.
3/08/16	Article V-Dimensional Requirements-increase the land area for a Residential-Two Family unit to 120,000 SF.
3/08/16	Delete Article VIII Traffic Mitigation.
3/08/16	Article X Wetlands Overlay District-delete Special Exception and include a new Conditional Use Permit to be granted by the Planning Board.
3/08/16	Article XIX Administration-clarify Section 1 Zoning Enforcement and add a new Section 6 Zoning Board of Adjustment.
3/08/16	Article X Wetlands Overlay District-include 60,000 SF of contiguous upland area for a two-family dwelling unit.
3/14/17	Article III-Section 2-Office District "O", Part B (1) delete <i>hotels of three (3) stories or higher</i> and replace it with "hotels not to exceed 45 feet in height"
3/14/17	Add a new definition of Manufacturing, Light in Article II Definitions.
3/14/17	Delete "Accessory Dwelling Unit" and replace it with a new definition for an "Accessory Dwelling Unit (ADU)" that follows RSA 674:71.
3/14/17	Modify existing NZO Article Signs to make the sign ordinance "content neutral".
3/13/18	Add a definition of Building Height
3/13/18	Article III-Zoning Districts Section 6- add uses that are appropriate and inappropriate.
3/13/18	Article XVII-Administration, Section 3-add "shall complete the building within eighteen (18) months after the issuance of the building permit."
3/13/18	Article IV-General Provisions add a new Section 11.
3/13/18	Article XVII-Administration, Section 2- Building Permit Required, added section about Building Inspector having the authority to require a certified foundation plan and a certified plot plan.
3/13/18	Article VI-Non-Conforming Property, Section 1-adding clarification in the second

sentence.

3/13/18 Article IV General Provisions-add a new Section 12.

3/12/19 Article II-Definitions-Added Warehouse Definition

3/12/19 Article II Definitions-Added Self-Storage Definition

3/12/19 Delete Article VIII-Air Pollution Mitigation

3/12/19 Article III, Section 1-Residential "R" A-Description and Purpose- delete "may require additional conditions of approval imposed by the Planning Board on a case by case basis.

3/12/19 Article III, Section 6, Waterfront Industry and Commerce District "W", B Uses permitted: Delete all of 9) Residential uses for watchman, caretaker or janitor. The industry or business shall annually certify by April 1<sup>st</sup> that the resident is a bona fide employee serving as a watchman, caretaker or janitor. Failure to do so shall make the use Not Permitted.

3/12/19 Add a new provision to Article IV General Provisions: Article IV Section 13- Existing Employee residences.

3/12/19 Article XVI- Small Wind Energy Systems: In Section 2 Procedure: A-Location: Add the following new language- "except in the Residential District "R" zone. Now reads: Small wind energy systems and MET towers are an accessory use that is permitted in all zoning districts, except in the Residential District "R" zone.

3/12/19 Article XVI-Small Wind Energy Systems: In Section 2 Procedure: A-Location: Add the following new language- "except in the Residential District "R" zone." Now reads: Small wind energy systems and MET towers are a accessory use that is permitted in all zoning districts, except in the Residential District "R" zone.

3/10/20 Change Article XV to Renewable Energy Systems to allow the development of ground mounted solar systems in the Residential District "R" only.

3/10/20 Article IX – Signs – amend to include new definitions of "Sign", "Off-Premise Sign", "Permanent Sign" and "Temporary Sign", expansion of the section Sign Permit Required by adding items the applicant shall provide, addition of a new table titled Sign Quantities, a new section titled Sign Duration for Certain Temporary Signs and clarification regarding setbacks, lighting and signs on public property.

3/10/20 Add a new Article XVIII Workforce Housing Overlay District as a permitted use through an overlay district covering three parcels identified as Tax Map 12 / Lots 13, 15 and 16.

3/9/2021 Article XVII-Floodplain Management, Item XII-Special Flood Hazard Areas. Add zone name AE, spell out FIRM, Flood Insurance Rate Map.

3/9/2021 Add a new Section to Article III, Section 9 as follows: b. In the event that any land under the control of the Pease Development Authority (PDA) within the Town of Newington is transferred or sold to any entity other than the PDA, NO further development of any property may occur until such time as the Town of Newington adopts Ordinances and Regulations that address future development of land in Newington that was formerly under PDA Control.

3/9/2021 Add new Section to Article VII-Dimensional Requirements: SECTION 2 – Maximum Length of Residential Roads: Dead end Streets located in Residential Zoning Districts shall not exceed 1,500' in length measured along the centerline



- of the road commencing at the edge of pavement of the existing road to the farthest point of the cul de sac.
- 3/9/2021 Article III-Zoning Districts, Section 2.A-Office District-Add the following new language-"The Office District, like the other commercial / non-residential zoning districts in Newington, was strategically located between other commercial zoning districts which allow for very intense industrial and commercial uses. The portion of this district on the Easterly side of the Spaulding Turnpike provides for a large geographical separation from the Residential District to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions. It is also
- 3/9/2021 Article III-Zoning Districts, Section 3, A-Commercial District-Add the following new language-" The Commercial District, like the other commercial / non-residential zoning districts in Newington, was strategically located between the Spaulding Turnpike and the Office District providing for a large geographical separation from the Residential District to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations within and adjacent to this district. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions.
- 3/9/2021 Article III-Zoning Districts, Section 5.A-Industrial District-Add the following new language-" The Industrial District, like the other commercial / non-residential zoning districts in Newington, was strategically located between other commercial and waterfront industrial zoning districts which allow very intense industrial and commercial uses and provides for a large geographical separation from the Residential District (excepting Patterson Lane which predated zoning in Newington) to provide an adequate buffer from the noise, light, traffic and noxious fumes associated with commercial and industrial operations. The separation of residential and non-residential uses has been supported by the Master Plan for decades through many revisions. 3/9/2021
- 3/9/2021 Article XVIII-Workforce Housing Overlay District, Section 3. Add the following new language-"This area is adjacent to existing rural residential neighborhoods and has existing public water, sewer, and natural gas as well as access for emergency services. While Newington recognizes the need to support housing affordable for a workforce, such growth must be proportional to the town's small number of residents to not undermine the fundamental principles of sound growth adopted and followed in the town's Master Plans since the 1960's.
- 3/8/2022 Article VIII-Wetland Overlay District, Section 4. Added the following language (1) unless the CUP is part of a Subdivision or Site Plan Application being reviewed by the Planning Board, in which case the surety will be included in the Performance Guarantee for the project in its

	entirety.
3/8/2022	Article XVI, Section 5. In cases where a zoning ordinance or parts thereof may be in conflict with another ordinance or regulation, the more stringent shall apply.
3/8/2022	Article II, Section 2. Changed definition of Frontage: Shall mean the distance a lot borders on a Class V highway or better, or road approved by the Planning Board. In cases where a property abuts multiple roads as defined herein, the Planning Board shall determine which portion of the frontage is subject to front setback requirements.
3/8/2022	Article III, Section 7. C. Permitted Uses in the Historic District. (1) In the Nimble Hill District, any use permitted in the Single Family Residential "R" District, subject to the provisions of the Newington Historic District Ordinance.
3/8/2022	(2) In the Bloody Point District, any use permitted in the adjacent Office District, subject to the provisions of the Newington Historic District Ordinance.
3/8/2022	Article XV, B, Section 2. (Ground Mounted Solar Energy System in a Residential Zone): B-Building Permit: A ground-mount or pole mount solar energy system is an accessory use, but because of the potential impacts to abutting property owners and the general public, Site Plan approval from the Planning Board is required as well as a building permit for such a system. A building or carport roof mounted solar system shall only require a building permit issued by the building inspector. C-Application: Applications submitted to both the Planning Board and the Building Inspector shall contain a Site Plan with the following information: i) Documentation that the size of the proposed solar system is directly related to the amount of electricity required by the individual residence. ii) The location of the proposed ground-mount or pole-mount system. Any ground or pole mounted system shall be located in a inconspicuous location, such as the side and rear yards, low to the ground. iii) Ground-mount and pole-mount solar systems shall be densely screened such that no more than 25% of the array is visible from property lines or public roads all four seasons of the year. Landscaping, including, but not limited to shrubbery, trees, fencing and earthen berms or a combination thereof, may be used for screening. iv) If it can't be proven that the proposed array will not cause glare that could be seen from neighboring properties and/or public spaces, non-reflective panels will be required. v) The Planning Board may, at its discretion, require balloons to be flown at the actual height of the corners of the array for the Board, neighboring property owners and the general public to see for a several day period if there is a question or concern about the effectiveness of screening.
3/14/2023	Article II-Definitions, Section 2-List of Definitions Building Height: The vertical difference between the average grade of the four outside corners of the foundation of the building at grade and the highest roof line or parapet wall. Chimneys, vents or utility service structures shall not be included in the measurement of vertical dimensions.
3/14/2023	Article VII-Dimensional Requirements. Section 1 : B. Residential Building Height Limits & Standards.

## **Revisions to Newington's Building Code Since 1983**

<b>Date</b>	<b>Description</b>
3/13/84	All structures to conform to Fire Prevention Code
3/13/84	All non-residential structures to conform to NFPA
3/10/87	Increase penalty from \$10 to \$100 per day
3/10/87	Delete non-climbable from swimming pool section
3/12/91	Delete Section 5, and adopt several national codes by reference
3/12/91	BOA to serve as Building Code Board of Appeals
4/21/97	BOCA & NFPA codes updated
3/10/98	Sewer connections to be cast iron, and piping materials shall be metal
3/10/98	Evidence of working septic system to be submitted prior to issuance of BP
3/9/99	Fee schedule moved from Article XV of Zoning Ordinance
3/12/02	Architect or engineer stamp required for buildings in excess of 2,000 sf
3/12/02	BOCA code applied to residential properties
9/9/02	International Codes (2000) adopted by reference
3/9/04	Replaced sections 2, 7, 8 & 9 (permits, sewer, piping materials, and pools)
3/13/07	Sprinklers required in non-residential buildings
3/11/08	NH State Building Codes replaced International Codes
3/13/18	Section 9-Swimming Pools-add language adding a power safety cover as an authorized exception
3/10/20	Delete the following language from Item #2: No permit is required (residential only) for repairs necessitated by normal wear and tear provided that such repair is not a structural repair. <del>restores the structure to its 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).</del>
3/10/20	Delete item # 8 – Piping Materials in the Town's Building Code and renumber remaining items in the section.

## Revisions to the Subdivision Regulations Since 1983

<b>Date</b>	<b>Description</b>
6/2/83	Sewer connections in the B & I Districts
10/3/85	Scattered & premature develop. prohibited, per RSA 674:36 II(a)
1/9/86	New fee schedule adopted
2/6/86 & 7/10/86	Penalty increased from \$10 to \$100
5/7/87	Definition of Bond
5/7/87	Maintenance bond required
5/7/87	Engineering fees to be paid before Permit issued
2/18/88	Developer to assume cost for hydrants
1/5/95	Adopted sidewalk standards and striping requirement
5/26/95	Adopted new standards for streets, sidewalks & bike paths
5/26/95	Require that septic system be on the same lot as the building
7/6/95	Engineers et. al. shall be notified by certified mail
10/5/95	Topographical plans shall show shoreland buffers and floodplains
10/2/97	Exhibits become the property of the Town
10/2/97	NH State Plane Coordinates & USGS 1983 datum required
10/2/97	Submittal of digitized copy of plan required
10/2/97	Upon road completion: clear debris, submit as-builts, and compliance inspection
1/8/98	Definitions for conduit related terms added
1/8/98	Utility Hookups: developer to extend secondary ducts to every house
6/4/98	Roadway Maintenance Bond increased from 3% to 10%
6/3/99	Section 4H: replaced Min. Standards...with applicable road construction standards
1/25/10	Updated requirement for submittal of plans in digital format
7/11/11	Major revisions to roadways in Section 5
11/7/11	Letters from utilities required in advance
11/24/14	Eliminated \$2 per abutter fee
11/24/14	Updated references to Water Supply & Pollution Control Commission
11/24/14	Redefined flood zone
11/24/14	Updated topo reference
11/24/14	Updated PB procedures
11/24/14	Increased application fees

12/15/14	Added new Section 5 (Newbury, NH) re: subdivision layout & design
12/15/14	Defined Form Factor
2/23/15	Adopted waiver criteria pursuant to RSA 674:36 II (n)
10/19/20	Section 5-Road Design Standards C. Dead End Streets: Dead-End Streets shall not exceed 1,500' in length measured from the edge of the pavement of the existing road to the furthest point of the cul de sac, and shall be equipped with a turn-around at the closed end with a minimum radius of 68 feet to the outside edge of the pavement.

## Revisions to the Site Plan Regulations Since 1983

<b>Date</b>	<b>Description</b>
1/9/86	New fee schedule adopted
5/7/87	Definition of Bond
5/7/87	Engineering fees to be paid before Permit issued
7/6/89	Add section on site approval expiration after 2 years
3/4/93	Added tree preservation section for setback areas
1/6/94	Added traffic mitigation requirements
1/5/95	Amended and enhanced the tree preservation section
5/26/95	Adopted new standards for streets, sidewalks & bike paths
10/5/95	Driveway regulations adopted
10/2/97	Exhibits become the property of the Town
10/2/97	NH State Plane Coordinates & USGS 1983 datum required
10/2/97	Submittal of digitized copy of plan required
11/8/99	Cultural Resource Regulations adopted
2/14/00	Adopted lighting regulations
2/11/02	Condominium Conversion Regulations adopted
7/9/07	Bonds required for review by PB's consultants
12/14/09	Adopted storm water runoff regulations
1/25/10	Updated requirement for submittal of plans in digital format
1/11/11	Parking requirements moved from zoning to site plan review regulations
11/7/11	Requires letters from utilities confirming conformance with utility policies
11/7/11	Parking standards established for minimum as well as maximum spaces allowed
11/24/14	Increased application fees
3/9/2021	Adopted new standards for Parking lot design requirements

## Revisions to the Road Construction Specifications

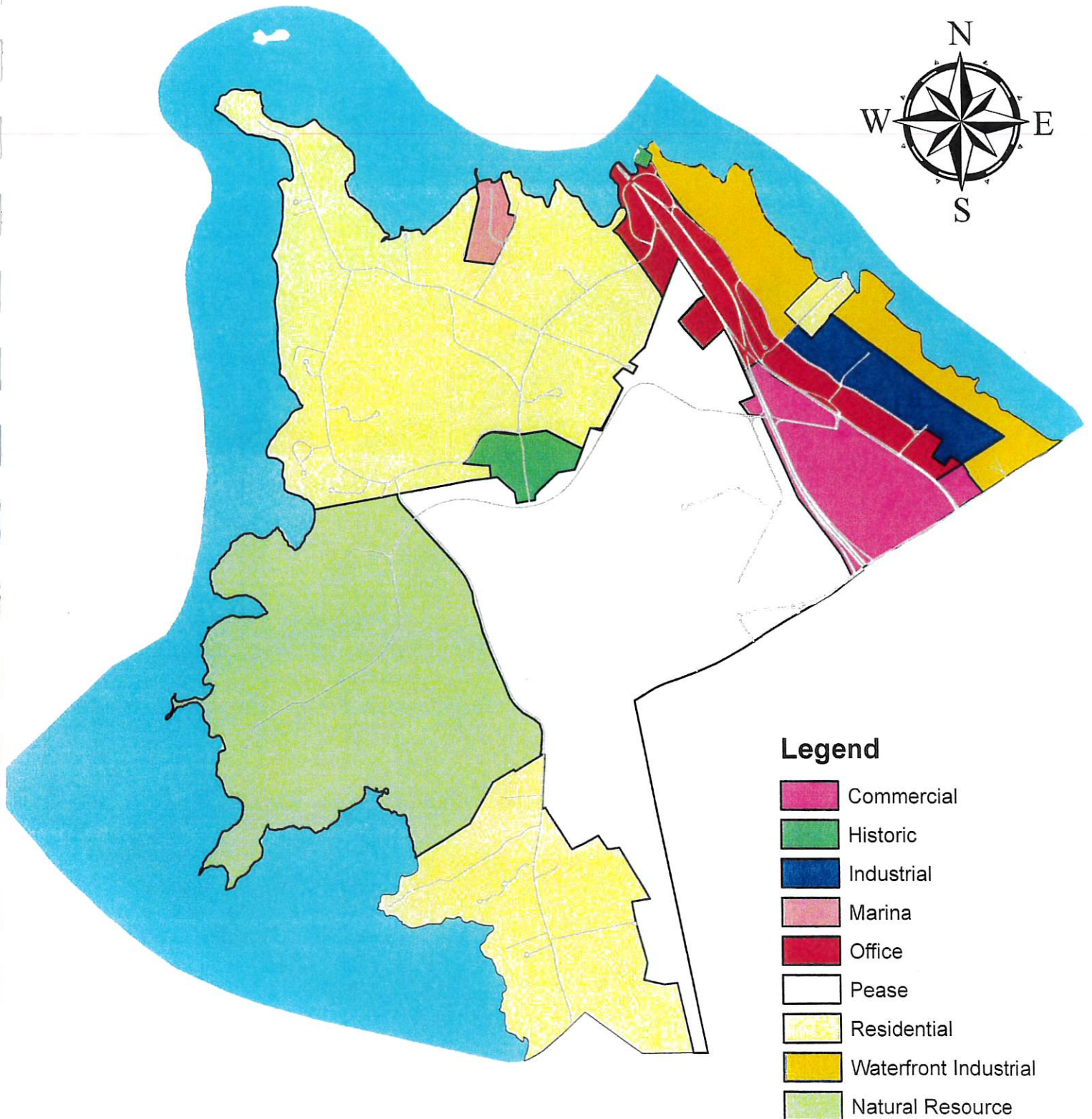
Date	Description
5/26/95	Adopted Road Construction standards
10/2/97	Stabilized construction entrance required
10/2/97	Shoulder width increased from four to five feet
1/8/98	Detailed conduit requirements added (Section 9C)
1/8/98	Water service to be extended to every lot prior to road completion
6/3/99	Adopted construction specifications for non-residential roadways
6/3/99	Changed Road Construction Specs to " <i>Residential Roadway Construction Specs</i> "
6/3/99	Changed title of Section 24 to " <i>...Standards for Residential Roadways</i> "
1/25/10	Replaced ACCMP culvert with HDPE culvert
1/25/10	Eliminated requirement for granite curbs
1/25/10	Eliminated requirement for one-foot shoulders on bicycle paths
7/11/11	Adopted new specifications prepared by Altus

## Revisions to the Driveway Regulations

Date	Description
10/5/95	Regulations adopted
10/2/97	Stabilized Construction Entrances required, and roads to be kept free of debris
2/24/14	Banned shared driveways



# Zoning Districts














# Zoning Districts



## Legend

-  Commercial
-  Historic
-  Industrial
-  Marina
-  Pease
-  Office
-  Natural Resource
-  Residential
-  Waterfront Industrial

