

TOWN OF NEWTON

ORDINANCE # 2012-12

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF NEWTON BY
DELETION AND REPEAL OF:
CHAPTER 162, LAND SUBDIVISION;
CHAPTER 240, SITE PLAN REVIEW;
CHAPTER 320, ZONING; AND
CHAPTER 139, HISTORIC PRESERVATION; AND
BY ADOPTION OF THE FOLLOWING NEW CHAPTERS:
CHAPTER 240, LAND SUBDIVISION & SITE PLAN;
CHAPTER 320, FORM BASED CODE;
AND CHAPTER 139, HISTORIC PRESERVATION**

BE IT ORDAINED, by the Town Council of the Town of Newton as follows:

Section 1.

The Code of the Town of Newton is hereby amended by deleting and repealing: Chapter 162, Land Subdivision; Chapter 240, Site Plan Review; Chapter 320, Zoning; and Chapter 139, Historic Preservation.

Section 2.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 162 and Chapter 240 hereinabove repealed, to be Chapter 240, Land Subdivision & Site Plan, which is attached to and made part of this ordinance as "Schedule A".

Section 3.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 320 hereinabove repealed, to be Chapter 320, Form Based Code, which is attached to and made part of this ordinance as "Schedule B".

Section 4.

The Code of the Town of Newton is hereby amended by adding thereto a new chapter to replace Chapter 139 hereinabove repealed, to be Chapter 139, Historic Preservation, which is attached to and made part of this ordinance as "Schedule C".

Section 5.

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this ordinance.

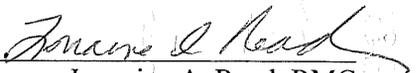
Section 6.

This ordinance shall take effect upon final adoption, publication and the filing of a copy of said ordinance with the Sussex County Planning Board, all in accordance with the law, and applies to any new or pending application and to any matter on appeal to any municipal agency or to any Court.

Section 7.

The Town Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Sussex County Planning Board and to all others entitled thereto pursuant to the provisions of N.J.S. 40:55D-15. Upon adoption of this ordinance after public hearing thereon, the Town Clerk is further directed to publish notice of the passage thereof and to file a copy of the ordinance as finally adopted with the Sussex County Planning Board, as required by N.J.S. 40:55D-16.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on March 26, 2012. It was adopted, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on April 9, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.



Lorraine A. Read, RMC
Municipal Clerk

ORDINANCE 2012-12

SCHEDULE A

CHAPTER 240, LAND SUBDIVISION & SITE PLAN

Town of Newton

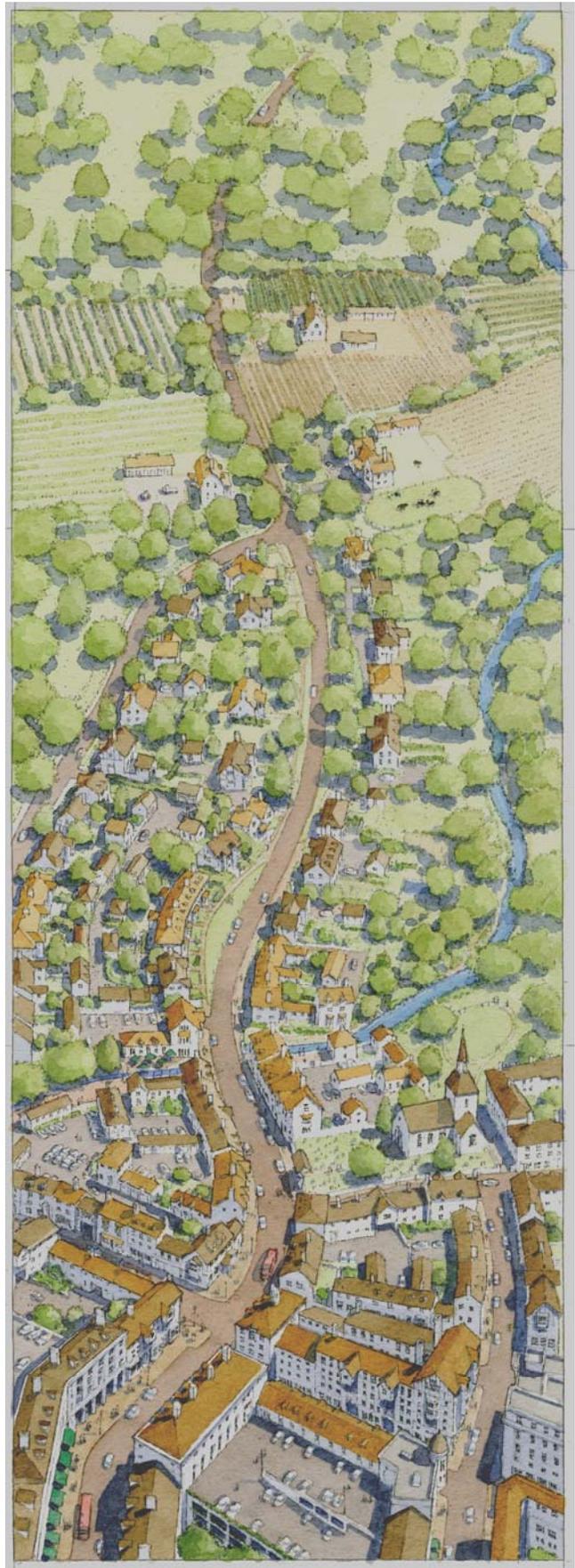
CHAPTER 240 LAND SUBDIVISION & SITE PLAN

CHAPTER 320 FORM-BASED CODE

CHAPTER 139 HISTORIC PRESERVATION

Newton Land Development Ordinances

Effective May 2, 2012



CHAPTER 240 – LAND SUBDIVISION AND SITE PLAN

- 240-1. Title and Purpose, Approving Agency
- 240-2. Definitions
- 240-3. Subdivision and Site Plan Procedures
- 240-4. Plat and Plan Details
- 240-5. Improvements
- 240-6. Street and Stormwater Design Standards
- 240-7. Subdivision and Site Plan General Design Standards
- 240-8. Off-Street Parking/Loading
- 240-9. Signs
- 240-10. Wellhead Protection
- 240-11. Steep Slopes
- 240-12. Riparian Zones
- 240-13. Reserved
- 240-14. Reserved
- 240-15. Reserved
- 240-16. Guarantees and Substantial Completion
- 240-17. Validity
- 240-18. Administration and Enforcement
- Schedule A: Lighting
- Schedule B: Major Pollutant Sources
- Schedule C: Types of Facilities or Uses That Are Deemed Major Pollutant Sources
- Schedule D: Wellhead Protection Area Map
- Schedule C: Riparian Zones Map
- Schedule D: Planning Board Application Checklist

Section 240-1. Title and Purpose, Approving Agency

A. **TITLE & PURPOSE**

This Chapter shall be known and may be cited as the land subdivision and site plan ordinance of the Town of Newton. The purpose of the Chapter shall be to provide rules, regulations and standards to guide land subdivision and site plan review in the Town of Newton in order to promote health, safety, convenience and general welfare of the municipality. It shall be administered to ensure the orderly growth and development, the conservation, protection and proper use of land and adequate provisions for circulation, utilities and services.

B. **APPROVING AGENCY**

The provisions of this Chapter shall be administered by the Town Planning Board in accordance with all applicable provisions of N.J.S.A. 40:55D-1 et, seq.

Section 240-2. Definitions

A. DEFINITIONS

As used in this Chapter, the following words shall have the meanings hereinafter set forth:

Acid Producing Soils. Soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

Administrative authority. The Planning Board or Construction Office with all of the powers delegated, assigned, or assumed by them according to statute or ordinance.

Applicant. The individual, corporation or entity submitting an application for development.

Application for development. The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L. 1975, c.291 (C.40:55D-34 or C.40:55D-36).

Aquifer. A formation, group of formations, or part of a formation that contains sufficient saturated permeable rock, sand, or gravel which is capable of storing and transmitting usable quantities of water to wells and springs.

Best Management Practices (BMP). Performance or design standards established to minimize the risk of contaminating ground water or surface waters while managing the use, manufacture, handling or storage of hazardous substances or hazardous wastes.

Category One waters or C1 waters. Shall have the meaning ascribed to this term by the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the anti-degradation policies set forth in those standards, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources.

Category Two waters or C2 waters. Those waters not designated as Outstanding Natural Resource waters or Category One waters in the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the anti-degradation policies set forth in those standards.

Complete application. An application form completed as specified by this or any other applicable ordinance and the rules and regulations of the Planning Board. A complete application includes all accompanying documents required by ordinance for approval of the application for development. Where applicable this includes, but is not limited to, a site plan or subdivision plat, provided that the Planning Board or other reviewing municipal agency. may require such additional information not specified in the ordinance. The Planning Board may also require revisions in the accompanying documents which are reasonably necessary to make an informed decision as to

whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the municipal agency. An application shall be complete upon the meeting of all requirements specified in the ordinance and in the rules and regulations of the municipal agency, and shall be deemed complete as of the day it is so certified by the administrative officer for purposes of the commencement of the time periods for action by the Planning Board or other municipal agency.

Contamination. The degradation of natural water quality so that the water is not suitable for human consumption.

Critical Environmental Areas. Areas containing environmental constraints such as wetlands, wetland buffers, riparian buffers, State waters, steep slopes or other environmental features which are regulated by the NJDEP or this Ordinance.

Developer. The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Development. The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

Discharge. Any intentional or unintentional action or omission, unless pursuant to and in compliance with the conditions of a valid and effective Federal or State Permit, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of a hazardous substance into the waters or lands of the State or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State.

Disturbance. The placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Drainage Right-Of-Way. The lands required for the installation of storm water sewers or drainage ditches, or required along a natural stream of water for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

Final Approval. The official action of the Planning Board taken on an approved preliminary plat after all conditions, engineering plans, and other requirements have been completed and the required improvements installed or bonds properly posted for their completion. A plat that receives such final approval shall have been prepared by a professional Engineer licensed in the State of New Jersey, and a land surveyor in compliance with all of the provisions of R.S. 46:23-9.9 et seq. and shall be the map which must be filed with the County Clerk in accordance with R.S. 40:55D-54 in order to make the approval binding.

Final Plat. The final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with these regulations and which, if approved, shall be filed with the County Clerk.

Floodway. Shall have the meaning ascribed to this term by the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 *et seq.*, and regulations promulgated thereunder published at N.J.A.C. 7:13 *et seq.*, and any supplementary or successor legislation and regulations from time to time enacted or promulgated.

General Terms and Conditions. The general terms and conditions shall be those outlined under preliminary plat, section 240-4 and the design standards as outlined under section 240-7.

Glare. The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility.

Ground Water. Water contained in interconnected pores of a saturated zone in the ground that is available for wells and springs. A saturated zone is a volume of ground in which the voids in the rock or soil are filled with water.

Hazardous Substance. Any substance designated under 40 CFR 116 pursuant to Section 311 of the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act) (Public Law 92-500; 33 U.S.C. 1251 *et seq.*), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 *et seq.*, or "hazardous pollutant" as defined by the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 *et seq.*). Substances listed include petroleum, petroleum products, pesticides, solvents and other substances.

Hazardous Waste. Any solid waste that is defined or identified as a hazardous waste pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E *et seq.*, N.J.A.C. 7:26-8, or 40 CFR Part 261.

I.E.S.N.A. Illuminating Engineering Society of North America. An organization that recommends standards for the lighting industry.

Impervious Surface. An area that has been covered by a layer of material that is highly resistant to infiltration by water.

Intermittent Stream. Means a surface water body with definite bed and banks in which there is not a permanent flow of water as shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Lake, Pond, or Reservoir. Any surface water body shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys; that is an impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water. This excludes sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

Light Trespass. Any form of artificial luminance emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance, as specified in Subsection 240-7.C.

Lot. A designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

Major Development. Any development that provides for ultimately disturbing one or more acres of land. Disturbance for the purpose of this Ordinance is the placement of impervious surface or exposure and /or movement of soil or bedrock or clearing, cutting or removing of vegetation.

Major Subdivision. All subdivisions not classified as minor subdivisions.

Major Subdivision Plat. The final map of a major subdivision which is presented to the Planning Board for approval and which, if approved, shall be filed with the County Clerk.

Master Plan. A composite of the mapped and written proposals recommending the physical development of the Town which shall have been duly adopted by the Planning Board.

Maximum Contaminant Level (MCL). Maximum permissible level of a contaminant in water measured at the point of entry to the distribution system or at the free-flowing outlet of the ultimate user of a public water system or other water system to which State primary drinking water regulations apply. Any contaminant added to the water under circumstances controlled by the user, except a contaminant resulting from corrosion of piping and plumbing caused by water quality, is excluded from this definition. (New Jersey Safe Drinking Water Act N.J.A.C. 7:10)

Minor Subdivision. The division of a tract of land meeting one or more of the following conditions:

- (1) The division of a parcel of land for the purpose of enlarging an adjoining parcel wherein the remaining parcel is not in conflict with the Zoning Ordinance, nor is its future use or development adversely affected.
- (2) The division of a tract of land into a maximum of two lots plus the remainder (three lots total) of the tract being subdivided wherein all such lots or parcels meet all of the following requirements:
 - (a) Such lots shall not be in conflict with the Zoning Ordinance, Master Plan or Official Map.
 - (b) All lots shall front on an existing street as defined in this Chapter which is of the width shown on the Master Plan and which is improved sufficiently to meet all requirements of R.S. 40:55D-35 so that a building permit could be issued to construct a building on each lot.
 - (c) No new streets or roads shall be involved.
 - (d) Curbs, sidewalks and other improvements required in section 240-7 are either in existence or the lots are located in a developed area where such improvements would normally be installed by the Town either as a general improvement or by assessment against benefiting property owners.
 - (e) The resulting lots shall be suitable for their intended purpose without the necessity of making unusual changes in grades of the lots.
 - (f) The creation of the lots shall not produce a drainage problem or result in the necessity for drainage improvements or any other type of off-tract improvement.

- (g) The creation of the lots will not adversely affect the uniform and comprehensive development of any remaining parcel or adjoining land in terms of:
 - [1] Suitable future road access and desirable future road and lot patterns.
 - [2] Future water and sanitary sewer utility installation and storm drainage improvements.
- (h) The creation of the lots shall be in conformance with the zoning plan and zone scheme for the area and the immediately surrounding neighborhood.
- (i) Notwithstanding the foregoing, no more than two lots and a remainder shall be created by minor subdivision, if complete development of the remaining lot or parcel as permitted by the zoning Chapter would require a new road or roads. Subsequent subdivision of a remaining lot or parcel shall be accepted only as a major subdivision.

Minor Subdivision Plat. The final map of a minor subdivision which is presented to the Planning Board for approval and which, if approved, shall be filed with the County Clerk unless the subdivision is perfected by deeds filed with the County Clerk.

NJDEP. New Jersey Department of Environmental Protection.

Objectionable Direct Glare Source. Glare resulting from excessive levels of illumination or insufficiently shielded light sources emanating from light fixtures in the field of view where the lens, lamp or reflector produces visible glare above a height of five (5) feet at a property line or a public roadway.

Official Map. A map adopted in accordance with the provisions of R.S. 40:55D-32 et seq. Such map shall be deemed to be conclusive with respect to the location and width of streets, public parks and playgrounds, and drainage right-of-way shown thereon.

Off Site. Located outside the lot lines of the lot in question but within the property of which the lot is a part, which is the subject of the development application, or contiguous portion of a street or right-of way.

Off Tract. Not located on the property which is the subject of a development application, nor on the contiguous portion of a street or right-of-way.

On Site. Located on the lot in question.

On Tract. Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Outdoor Light Fixture. An electrically powered illuminating device containing a total light source of more than 1800 initial lumens per fixture or any spot or flood luminaire with a reflector contained in the lamp component such as a parabolic aluminized reflector (PAR) lamp, of more that 900 initial lumens, which is permanently installed outdoors, including but not limited to, devices used to illuminate any site, architectural structure, or sign.

Owner. Any individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be subdivided, to commence and maintain proceedings to subdivide such land under this Chapter and for the

purpose of this Chapter, shall include developer, applicant, agent, Engineer or other person authorized to represent the owner as defined herein.

Perennial Stream. A surface water body that flows continuously through the year in most years and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resources Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Performance Guarantee. Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board or other approving body approves a plat, including performance bonds, escrow agreements, and other similar collateral or surety agreements.

Person. Any individual, public or private corporation, company, partnership, firm, association, owner or operator, political subdivision of this State, and any State, Federal or interstate agency or an agent or employee thereof.

Plat. A map or maps of a subdivision or site plan.

Polluted Water. Drinking water exceeding a Federal and/or State maximum contaminant level (MCL).

Population Group. A group or number of people living within a specified area or sharing similar characteristics (such as occupation or age).

Potential Pollutant Source (PPS). An activity or land use which may contribute to contamination of a source of drinking water. For the purposes of this Ordinance Potential Pollutant Sources are defined in Subsection 240-10.F.

Preliminary Approval. The conferral of certain rights pursuant to section 34, 36 and 37 of P.L. 1975, c.291(C.40:55D-46; C.40:55D-48; and C.40:55D-49) prior to final approval after specific elements of a development plan have been agreed upon by the planning board and the applicant.

Preliminary Plat. The preliminary map indicating the proposed layout of the subdivision submitted to the secretary of the Planning Board for Planning Board consideration and tentative approval, and meeting the requirements of section 240-4 of this Chapter.

Public Community Well. A public water supply well which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Public Drainage Way. The land reserved or dedicated for installation of storm water sewers or drainage ditches, or required along a natural stream or water course for preserving the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion.

Public Nontransient Noncommunity Well. A public water supply well that is not a public community well and that regularly serves at least 25 of the same persons for more than six months in any given calendar year.

Redevelopment. The construction of structures or improvements on areas which previously contained structures or other improvements.

Re-subdivision. The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law, or the alteration of any streets or establishment of any new streets within any subdivision previously made and approved or recorded according to law. Re-subdivision shall not include conveyances to combine existing lots by deed or other instrument.

Riparian Zone. The land and vegetation within and directly adjacent to all surface water bodies including, but not limited to lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Riparian Zone Management Plan. A plan approved by the Town Engineer. The plan shall be prepared by a landscape architect, professional Engineer or other qualified professional, and shall evaluate the effects of any proposed activity/uses on any riparian zone. The plan shall identify existing conditions, all proposed activities, and all proposed management techniques, including any measures necessary to offset disturbances to any affected riparian zone.

Shielded Light Fixture. A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees above nadir (straight down at perfect vertical), through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Sole Source Aquifer. Any drinking water aquifer upon which more than 50% of a population group of 25 or more year round residents depends and for which there is no practicable or affordable alternate water supply.

Special Water Resource Protection Area or SWRPA. A 300-foot area provided on each side of a surface water body designated as a C1 water or tributary to a C1 water that is a perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage, pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h).

Steep Slopes. Any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

Street. Any avenue, street, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing State, County or Municipal roadway, or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action, or a street or way on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of a Planning Board and the grant to such Board of the power to review plats. "Street" shall include the land between the street lines whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas, and other areas within the street lines. For the purpose of this Chapter, streets shall be classified as follows:

- (1) Arterial streets. Those streets used primarily for fast or heavy traffic.
- (2) Major streets. Those streets used primarily for heavy local and through traffic.
- (3) Collector streets. Those streets which carry traffic from minor streets to major streets, including principal entrance streets of a residential development and streets for circulation within such a development.
- (4) Minor streets. Those streets used primarily for access to the abutting properties.
- (5) Marginal access streets. Those streets parallel or adjacent to controlled access highways or major thoroughfares, and which provide access to abutting properties and protection from through traffic.
- (6) Alleys. Minor ways used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Street Line. The edge of the improved street including pavement, shoulders, gutters, sidewalks, parking areas, curbs and planting strips or pavers.

Subdivider. An applicant for development who seeks to subdivide the property in question.

Subdivision. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this Chapter, if no new streets are created:

- (1) Divisions of land, if found by the Planning Board or Technical Review Committee thereof appointed by the chairman to be used for agricultural purposes where all resulting parcels are five acres or larger in size.
- (2) Divisions of property by testamentary or intestate provisions.
- (3) Divisions of property upon court order, including but not limited to judgments of foreclosure.
- (4) Consolidation of existing lots by deed or other recorded instrument.
- (5) The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons all of which are found and certified by the administrative officer to conform with the requirements of the Municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the Town. The term "subdivision" shall also include the term "re-subdivision".

Surface Water Body(ies). Any perennial stream, intermittent stream, lake, pond, or reservoir. In addition, any regulated water under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-2.2, or State open waters identified in a Letter of Interpretation issued under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-3 by the New Jersey Department of Environmental Protection Division of Land Use Regulation shall also be considered surface water bodies.

Technical Review Committee. A committee of the Planning Board established by Chapter 166 to review any applications for development or requests for review presented to the Board which may benefit from preliminary review by the Board's professionals.

Temporary Use: A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve any permanent improvements on a property.

Threatened or Endangered Species. A species identified pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Endangered Species Act of 1973, 16 U.S.C. §§1531 et seq. or the Endangered Plant Species List, N.J.A.C. 7:5C-5.1, and any subsequent amendments thereto.

Tier 1 Well Head Protection Area. That area of land within a Well Head Protection Area from which ground water may enter the well within 2 years.

Tier 2 Well Head Protection Area. That area of land within a Well Head Protection Area from which ground water may enter the well within 5 years.

Tier 3 Well Head Protection Area. That area of land within a Well Head Protection Area from which ground water may enter the well within 12 years.

Time of Travel (TOT). The average time that a volume of water will take to travel in the saturated zone from a given point to a pumping well.

Trout Maintenance Water. A section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

Trout Production Water. A section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

Well Head. The well borehole and appurtenant equipment.

Well Head Protection Area (WHPA). An area described in plan view around a well, from which ground water flows to the well and ground water pollution, if it occurs, may pose a significant threat to the quality of water withdrawn from the well.

Section 240-3. Subdivision and Site Plan Procedures

Subsections:

- 240-3.A Completeness Review
- 240-3.B Informal Concept Review
- 240-3.C When Site Plan or Subdivision Approval Are Required
- 240-3.D Dedication of Right-Of-Way
- 240-3.E Traffic Impact Statement
- 240-3.F Environmental Impact Statement
- 240-3.G Submission of Minor Subdivision Plat
- 240-3.H Submission of Minor Site Plan
- 240-3.I Submission of Preliminary Plat of Major Subdivision for Preliminary Approval
- 240-3.J Improvement or Guarantees Prior To Final Approval
- 240-3.K Submission of Final Plat of Major Subdivision

240-3.A COMPLETENESS REVIEW

240-3.A(1) Content of application. Each application for approval of a minor site plan or subdivision, preliminary site plan, preliminary major subdivision, final site plan or subdivision, conditional use or variance relief shall include all information and data listed in the appropriate corresponding checklist as set forth in this Chapter.

240-3.A(2) Completeness procedure

- (a) The Municipal Agency or authorized committee or designee (hereinafter called the Municipal Agency) shall review all applications and accompanying documents required by this Chapter to determine that the application is complete. An application for development shall be complete for purposes of starting the applicable time period for action by the Planning Board when so certified by the Municipal Agency. In the event that the Municipal Agency does not deem the application complete within 45 days, the application shall be deemed complete for the purposes of starting the applicable time period for action by the Planning Board following the expiration of the 45 day time period. The applicant may request one or more waivers from the submission requirements upon presentation of reasons for granting the waiver. The Municipal Agency shall grant or deny the requests for waivers within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he or she is entitled to approval of the application.
- (b) The Municipal Agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the checklist or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the Municipal Agency.

240-3.B INFORMAL CONCEPT REVIEW

240-3.B(1) Prior to any submittal of an application for development, the applicant may request an informal review of a concept plan before the Planning Board in order to:

- (a) Familiarize the applicant with the substantive and procedural requirements of the Subdivision and Site Plan Ordinance.
- (b) Permit input from the Planning Board on the general design of the project.

- (c) Provide for an exchange of information regarding the concept plan and applicable elements of the Master Plan, Zoning Ordinance and other development requirements.
- (d) Advise the applicant of any public sources of information that may assist the application.
- (e) Consider opportunities to increase the benefits of the development and mitigate any impacts related to the development.
- (f) Identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

240-3.B(2) Neither the developer nor the Planning Board shall be bound by the review of any concept plan.

240-3.B(3) Documents and fees to be submitted. Applicants seeking an informal concept review before the Planning Board shall submit 18 copies of the plan and one copy of the completed application and required review fees to the Board Secretary.

240-3.B(4) Nature of the concept plan. The concept plan is a general plan that need not be fully engineered. The plan or plat should be sufficiently detailed to allow the Planning Board to make suggestions on general site design and layout for circulation, stormwater management, location of open space and buffers, building arrangements and to determine how the proposal meets the Town's Master Plan goals and objectives.

240-3.C WHEN SITE PLAN OR SUBDIVISION APPROVAL ARE REQUIRED

240-3.C(1) Any property that is to be developed, redeveloped, altered or changed in any way shall require a minor or major site plan approval or waiver of same by the appropriate reviewing agency. Exempt from this process are detached one- or two-unit dwellings on an individual lot and any construction work considered to be ordinary repairs by the Zoning Officer. Also exempt are changes in occupancy, changes in use or temporary uses approved by the Zoning Officer.

240-3.C(2) Subdivision approval shall be required prior to the recording of any plat or deed affecting the subdivision of any land in the Town of Newton.

240-3.D DEDICATION OF RIGHT-OF-WAY

No subdivision or site plan involving any street(s) requiring additional right-of-way width as specified in the Master Plan, Official Map or the street requirements of this Chapter shall be approved unless such additional right-of-way, along one or both sides of said street(s), as applicable, be deeded to the Town or other appropriate governmental agency.

240-3.E TRAFFIC IMPACT STATEMENT

240-3.E(1) The Board may require a traffic impact statement as part of preliminary approval of a major subdivision or site plan if, in the opinion of the Board Engineer, the development could have an adverse impact on the surrounding road network, site, ingress/egress or on-site circulation.

240-3.E(2) General provisions

- (a) The traffic impact statement shall be prepared by a New Jersey licensed professional Engineer having appropriate experience and education in traffic Engineering.
- (b) All relevant sources of information used in the preparation of said statement shall be identified.

240-3.E(3) Submission format. All traffic impact statements shall provide a description of the impact and effect of the proposed land development upon all roads which are adjacent to or immediately affected by traffic and shall specifically address the following items:

- (a) Existing conditions in the vicinity of the proposed project including:
 - [1] Roadway network.

- [2] Representative traffic counts, not during holiday or summer periods (or with appropriate statistical adjustments for counts during the summer months.)
- [3] Traffic accident statistics.
- [4] Availability of public transportation.
- [5] Level of service of adjacent roadways.
- (b) Traffic generated by the proposed development, including:
 - [1] Trip generation.
 - [2] Trip distribution.
 - [3] Modal split.
 - [4] Level of service.
- (c) Traffic impacts caused by the proposed development as per change in existing conditions.
- (d) Explanation of traffic reduction/traffic management plans necessary pursuant to any current Federal, State or County requirements.
- (e) Recommendations for alleviating or diminishing any possible congestion or disruption to the established traffic pattern.
- (f) Any other information requested by the Board that is reasonably required to make an informed statement of potential traffic impacts.

240-3.F ENVIRONMENTAL IMPACT STATEMENT

240-3.F(1) The Board shall require an environmental impact statement as part of preliminary approval of a major subdivision or site plan. The Board may waive portions of the environmental impact statement requirements upon a finding that a complete report need not be prepared in order to evaluate adequately the environmental impact of a particular project. The Board shall review the application with specific reference to the following areas of concern:

- (a) More than 25% of the property has a grade of 15% or greater.
- (b) More than 25% of the property is within a floodplain.
- (c) The property is located in an area where potable water supplies may be adversely affected.
- (d) Industrial activities involving the use, processing or manufacture of hazardous, toxic or corrosive substances as defined and named in regulations promulgated by the USEPA.
- (e) The visual impact of the project would be significant.
- (f) The proposal would result in negative impacts to critical environmental areas.

240-3.F(2) Submission format. All environmental impact statements shall consist of written and graphic materials which clearly present the following information:

- (a) Project description. A description of the proposed project shall be presented to indicate the extent to which the site must be altered, the kinds of facilities to be constructed, and the uses intended. The resident population, working population and visitor population shall be estimated.
- (b) The compatibility or incompatibility of the proposed project shall be described in relation to the following:
 - [1] Master Plan and latest Master Plan Reexamination.
 - [2] Sussex County Strategic Growth Plan and other planning documents.
 - [3] New Jersey State Development and Redevelopment Plan.

240-3.F(3) Site description and inventory. The suitability of the site for the intended use shall be discussed. This shall include a description of environmental conditions on the site which shall include, but not be limited to, the following items:

- (a) Topography and soil types. A description and map of the topographic conditions and soil types of the site shall be provided.
- (b) Contamination. Information regarding the presence or absence of environmental contamination, including the presence of known or suspected

contaminants on site; prior uses of the property; and the status of any past or present administrative or judicial proceeding involving contamination or remediation of contamination on the site. In appropriate cases, the Board may require similar information with regard to surrounding sites.

- (c) Critical environmental areas. A description and map of the wetland areas, wetland buffers and floodplains on the site shall be provided.
- (d) Surface water. A description and map of existing waterways and water bodies that are partially or totally on the site shall be identified along with any riparian issues that may be relevant to the development.
- (e) Unique scenic features. Describe and map those portions of the site that can be considered to have unique scenic qualities and any scenic view from the site.
- (f) Endangered species. A description and map of any threatened or endangered species habitat located within the site.
- (g) Miscellaneous. When warranted, an analysis shall be conducted of existing air quality and/or noise levels as prescribed by the New Jersey Department of Environmental Protection.

240-3.F(4) Impact. The negative and positive impacts of the project during and after construction shall be discussed. The specific concerns that shall be considered include the following:

- (a) Soil erosion and sedimentation resulting from surface runoff.
- (b) Flooding and floodplain disruption.
- (c) Surface water quality.
- (d) Sewage disposal.
- (e) Solid waste disposal.
- (f) Scenic features on and off site.
- (g) Air quality.
- (h) Noise levels.
- (i) Lighting levels, including trespass lighting.
- (j) Effect on community services, including projected population increase, increase in municipal and school services and consequences to municipal taxes.
- (k) Endangered species.
- (l) Critical environmental areas.

240-3.F(5) Mitigation measures. The applicant shall provide the measures that will be utilized during the planning, construction and operation phases of the project to minimize or eliminate negative impacts on and off site. Mitigation measures with regard to the following specific items should be prioritized:

- (a) Stormwater management plans and plans for soil erosion and sedimentation controls.
- (b) Water supply and water conservation proposals.
- (c) Noise reduction techniques.
- (d) Screening and landscaping intended to enhance the compatibility of the development with adjacent areas.
- (e) Miscellaneous on-site and off-site public improvements.
- (f) Sewage disposal.
- (g) Endangered species.
- (h) Critical environmental areas.

240-3.F(6) Alternatives. A discussion of site design and project location alternatives that were considered shall be provided. The discussion shall indicate why an alternative was rejected if it would have resulted in less of a negative impact than the proposed development.

240-3.F(7) Licenses, permits, and other approvals required by law. The applicant shall list all known licenses, permits and other approvals required by law in order to construct and operate the project as proposed. The list shall include at a minimum, approvals

required by the Town, County, State and Federal governments. Where approvals have already been granted, copies of said approvals should be attached to the report. Where approvals are pending, a note should be added stating when the application was submitted and when an approval is expected.

- 240-3.F(8) Documentation. All publications, file reports, manuscripts or other written sources of information, which were consulted in preparation of the environmental impact assessment, shall be listed and footnoted. A list of all agencies and individuals from whom pertinent information was obtained orally or by letter shall be listed separately. Dates and locations of all meetings shall be specified.
- 240-3.F(9) Review. Applicants shall provide suitable mitigation for all adverse environmental impacts and other conditions identified in the EIS and/or in the course of the public hearings before the Board.
- 240-3.F(10) Development Phasing. Whenever an applicant intends to construct a development in phases, phasing information shall be included in the plans for preliminary approval, and all phases shall be:
- (a) Fully functional, self-contained and self-sustaining with adequate access, circulation, parking, utilities, open spaces and landscaping. Each phase shall have the capacity to function perpetually independent of subsequently proposed phases.
 - (b) Provided with temporary or permanent transitional features, buffers or protective areas necessary to prevent damage or detriment to adjoining properties or to any completed section or stage. In addition, such temporary or permanent transitional features, buffers or protective areas shall not impede development of future sections or stages in the planned development. Plans, estimated dates of completion for each phase and specifications of each phase are to be filed with the Board, with sufficient detail and scale to fully demonstrate the arrangement and site locations of all structures, primary and accessory land uses, parking, landscaping, public and private utilities and services, facilities and land ownership conditions.

240-3.G SUBMISSION OF MINOR SUBDIVISION PLAT

- 240-3.G(1) Any owner of land within the Town, prior to subdividing or re-subdividing land where such subdivision is desired to qualify as a minor subdivision, may submit an application for minor subdivision approval to the secretary of the Planning Board in accordance with the land use procedures herein and according to the submission requirements of the minor subdivision checklist.
- 240-3.G(2) If approved as a complete application for a minor subdivision by unanimous action of the duly authorized committee of the Planning Board, the duly authorized committee of the Planning Board shall report its action at the next meeting of the Planning Board for a formal vote on the resolution of approval of the duly authorized committee's review. Upon a majority vote by the Planning Board, the Planning Board may request to review the application for minor subdivision prior to approving any resolution of approval. The final minor subdivision plat, or deeds perfecting the subdivision, shall be submitted by the subdivider to the Sussex County Planning Board for its consideration, simultaneously with its submission to the Town Planning Board. Following approval by the County Planning Board, ten copies of a final minor subdivision plat (or the original of subdivision's deed or deeds) shall then be forwarded by the applicant to the chairman and the secretary of the Planning Board for their signatures, and three signed copies shall be returned to the applicant within one week following the next regular meeting of the Planning Board. The latter shall also be signed by the Town Engineer who shall evidence compliance with all approved design and improvement standards. No further Planning Board approval shall be required. If variances are required, or if the duly authorized committee of the Planning Board deems the full Planning Board

should review the application, the application will be forwarded to the Planning Board for review at a regular meeting.

- 240-3.G(3) The Secretary of the Planning Board shall forward one copy to each of the following:
- (a) Town Clerk.
 - (b) Town Engineer.
 - (c) Town Planner.
 - (d) Building Inspector or Zoning Officer.
 - (e) Tax Assessor.
 - (f) Secretary of the Planning Board.
 - (g) County Planning Board.
 - (h) Secretary of the Board of Health.
 - (i) Planning Board.
- 240-3.G(4) Either a deed or plat shall be filed with the County Clerk in accordance with the provisions of the land use procedures Chapter.
- 240-3.G(5) If a plat is not approved as a minor subdivision, a notation to that effect shall be made on the plat which will be returned to the subdivider for compliance with the procedures of this Chapter.

240-3.H SUBMISSION OF MINOR SITE PLAN

- 240-3.H(1) Submission requirements for a minor site plan are provided for in the Minor Site Plan and Subdivision Checklist included in this Chapter. Some or all of those requirements may be waived by the reviewing agency.
- 240-3.H(2) Minor site plan classification criteria. An application may be designated as a minor site plan if the following conditions are met:
- (a) The use is permitted in the zone.
 - (b) No new bulk variances are required and no existing non-conformities are expanded or worsened.
 - (c) The proposed site improvements do not exceed, cumulatively over a five year period, a total of 5,000 square feet.
 - (d) The proposed building footprint is not increased, cumulatively over a five year period, by more than 2,000 square feet.
 - (e) No hazardous or toxic materials are involved in business operation.
- 240-3.H(3) Minor site plan review criteria. In reaching a decision about a minor site plan application, the reviewing Board, or a duly authorized committee of that Board, shall consider the issues outlined below. Notice of the meeting is not required for minor site plan review. :
- (a) The extent of any new parking demand, how it will be met and whether or not traffic conditions will be changed. In the case of sites in the T-4, T-5 and T-6 Zones, shared parking, off-site parking and other parking alternatives, may be accepted.
 - (b) The extent of any additional surface runoff and any impact on adjoining properties. If there is an anticipated increase in runoff, the approval shall be subject to the review and approval of the Board Engineer.
 - (c) The extent of any aesthetic impacts, either to the subject property or adjoining properties. Changes to the building façade, landscaping or other site features shall be considered in determining whether or not any negative impacts will result.
 - (d) The extent of any increase in the number of employees and any impacts associated with that increase.
 - (e) The extent of any exterior lighting changes and the impacts associated with those changes.
 - (f) The design of any proposed signage and whether or not it meets the Town's design guidelines and sign regulations.

- 240-3.1 SUBMISSION OF PRELIMINARY PLAT OF MAJOR SUBDIVISION FOR PRELIMINARY APPROVAL**
- 240-3.1(1) Any owner of land who desires major subdivision approval shall submit his application and maps and other required information in accordance with the requirements of the Major Site Plan and Subdivision Checklist, together with the required fees. The application and plat shall be forwarded to the Technical Review Committee and Town Engineer for review. If the Technical Review Committee finds the application for development is incomplete, the developer shall be notified thereof within 45 days of submission of such application, or it shall be deemed to be properly submitted. If the applicant is not the record owner of the title to the property being subdivided, he shall file a written consent signed by the owner consenting to the making of the application. The Applicant shall forward one copy thereof to the Town Clerk. The developer shall file copies with the County Planning Board for approval or waiver of review.
- 240-3.1(2) The applicant shall notify all persons entitled to notice of the hearing on the application in accordance with the provisions of the land use procedures Chapter and R.S. 40:55D-12. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have already been the subject of a hearing, an amended application shall be submitted and proceeded upon as in the case of the original application for development, including the giving of notice in accordance with the provisions of R.S. 40:55D-12.
- 240-3.1(3) Copies of the preliminary plat shall be forwarded by the secretary of the Planning Board prior to the hearing to the following persons:
- (a) Town Engineer.
 - (b) Secretary of Board of Health.
 - (c) Town Planner.
 - (d) Planning Board.
- 240-3.1(4) After the public hearing, the Planning Board shall take formal action either approving or disapproving the preliminary plat within the time required by R.S.40:55D-48. For a subdivision of ten or fewer lots, the Planning Board shall grant or deny preliminary approval within 45 days of the date of the submission, and in the case of a subdivision of more than ten lots, it shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval to the subdivision. If the plat is disapproved, the reasons for disapproval shall be given to the subdivider.
- 240-3.1(5) Approval of any application shall be conditioned on certification by the Sussex County Soil Conservation District of a plan for soil erosion and sediment control, pursuant to the provisions of R.S. 4:24-39, et seq.
- 240-3.1(6) If the Planning Board acts favorably on a preliminary plat, the chairman of the Planning Board shall affix his signature to the plat with a notation that it has received tentative approval and return it to the subdivider for compliance with final approval requirements.
- 240-3.1(7) A copy of the action taken by the Planning Board shall be forwarded to the Town Clerk.
- 240-3.1(8) Preliminary approval shall, except as hereinafter set forth, confer upon the applicant the following rights for a three year period from the date of such approval:
- (a) The general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to, use requirements, layout and design standards for streets, curbs and sidewalks, lot size, yard dimensions and off-tract improvements; except that nothing herein shall be construed to prevent the Town from modifying by Ordinance such general terms and conditions of preliminary approval as may relate to public health and safety.
 - (b) The applicant may submit for final approval on or before the expiration date of preliminary approval, the whole or a section or sections of the preliminary subdivision plat, and

- (c) The applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years; provided that if the design standards have been revised by ordinance, such revised standards may govern.
- (d) In the case of a subdivision for an area of 50 acres or more, the Planning Board may grant the rights referred to in paragraphs 1, 2 and 3 here-in-above for such period of time longer than three years, as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and non-residential floor area permissible under preliminary approval, economic conditions and the comprehensiveness of the development. The applicant may apply for thereafter, and the Planning Board may thereafter grant, an extension of preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable taking into consideration:
 - [1] The number of dwelling units under preliminary approval.
 - [2] The potential number of dwelling units and non-residential floor area of the section or sections awaiting final approval.
 - [3] Economic conditions.
 - [4] The comprehensiveness of the development, provided that if the design standards have been revised, such revised standards shall govern.

240-3.J

IMPROVEMENT OR GUARANTEES PRIOR TO FINAL APPROVAL

240-3.J(1)

No final plat shall be finally approved by the Planning Board until the satisfactory completion of all improvements required under section 240-7 have been certified to the Board by the Town Engineer, or unless the subdivision owner or owners shall likewise have satisfactorily completed:

- (a) All required utility installations and their appurtenances including water mains, gas, sanitary sewers, and drainage; all in accordance with the Town's specifications and as may be required by the Planning Board and Council.
- (b) Grading and constructed surfacing of the "base course" of all streets and the installation of all curbs and gutters where required by Subsections 240-5.D and 240-5.E of this Chapter, in accordance with Town specifications and as required by the Planning Board, and filed with the Town Council a performance guarantee in the form required by the Planning Board and Council sufficient in amount to cover 120% of the cost of all other improvements required by the Planning Board and Council, together with either cash or a cashier's or certified check sufficient in an amount to cover an amount equal to 10% of the cost of the improvements pursuant to N.J.S.A. 40:55D-53, all as estimated by the Town Engineer, and assuring the proper installation of the improvements by or before an agreed date; which 10% shall be held in escrow by the treasurer and deposited or invested in the manner prescribed by law for municipal funds, the principal amount to be refunded to the subdivision owner or owners upon satisfactory completion of all improvements and for release of the applicable performance guarantee or sooner, in the sole discretion of the Planning Board and the Town Council.
- (c) For improvements to the site that require ongoing maintenance, such as landscaping, the Town Council may require a maintenance guarantee to be posted for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement, which cost shall be determined by the Town Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance

guarantee, as the case may be, shall be required by the Town for such utilities or improvements.

240-3.K SUBMISSION OF FINAL PLAT OF MAJOR SUBDIVISION

- 240-3.K(1) The final plat shall be submitted to the Board secretary for forwarding to the Newton Town Council for final approval in accordance with the provisions of the land use procedures Chapter.
- 240-3.K(2) Eighteen (18) black and white prints, thirteen (13) half scales and five (5) full scales, together with four copies of the application form for final approval, shall be submitted to the secretary of the Planning Board at least ten days prior to the date of the regular Planning Board meeting. Unless the preliminary plat is approved without changes, the final plat shall have incorporated all changes or modifications required by the Planning Board.
- 240-3.K(3) The final plat shall be accompanied by a statement by the Town Engineer that all required utility installations and their appurtenances including water mains, gas, sanitary sewers, and drainage have been satisfactorily installed and constructed, and that he is in receipt of a map showing all said utilities in exact location and elevation, and that:
- (a) The developer has completed grading and constructed surfacing of the base course of all streets in accordance with Town specifications, and that performance guarantees as required by Subsection 240-5.H of this Chapter have been posted and deposited with the Town in a sufficient amount to insure the completion of all required improvements.
 - (b) The amount of the guarantee and cash deposit shall be based upon the Town Engineer's estimate of cost.
- 240-3.K(4) Unless the subdivider has filed a statement from the Sussex County Planning Board certifying compliance with all submission requirements of the Board as to the subdivision in question, one copy of the application and two copies of every plan shall be forwarded to the Sussex County Planning Board for its review and/or approval prior to final approval by the Newton Planning Board. If the Sussex County Planning Board has approval authority, its action shall be noted on the plat.
- 240-3.K(5) Final approval shall be granted or denied within the time specified in the land use procedures Chapter. Failure of the Planning Board to act within the period prescribed shall constitute final approval and a certificate of the secretary of the Board as to the failure of the Planning Board to act shall be issued on request of the applicant. Such certificate shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the County Clerk for purposes of filing final subdivision plats.
- 240-3.K(6) Upon final approval, copies of the final plat shall be filed by the Planning Board with the following:
- (a) Municipal Clerk - one copy.
 - (b) Municipal Engineer - one copy.
 - (c) Building Inspector - one copy.
 - (d) Tax Assessor - one copy.
 - (e) County Planning Board - two copies.
 - (f) Official issuing certificate for approved lots - one copy.
- 240-3.K(7) Within 95 days of final approval, the final plat shall be filed by the subdivider with the County Clerk in accordance with the provisions of R.S. 40:55d- 54. For good and sufficient reasons, the Planning Board may extend the time for filing for an additional period not to exceed 190 days from the date of the signing of the plat.
- 240-3.K(8) No plat shall be offered for filing to the County Clerk unless it has been duly approved by the Planning Board and signed by the chairman and secretary thereof.

240-3.K(9) Original mylars of the final approved plat shall be submitted to the Board secretary in sufficient number as required by the County Planning Board for signature by the Planning Board Chair, Board Secretary and Board Engineer.

Section 240-4. Plat and Plan Details

Subsections:

- 240-4.A Administrative Application Requirements
- 240-4.B Minor Subdivision Plat
- 240-4.C Major Subdivision Preliminary Plat
- 240-4.D Major Subdivision Final Plat
- 240-4.E Minor Site Plan
- 240-4.F Preliminary Major Site Plan
- 240-4.G Final Major Site Plan
- 240-4.H Variance Application
- 240-4.I Appeal or Zoning Interpretation

240-4.A ADMINISTRATIVE APPLICATION REQUIREMENTS

240-4.A(1) All applications before the Planning Board shall be accompanied by the following information:

- (a) Application form (original plus 17 copies).
- (b) Fees and escrow deposits.
- (c) Certification of taxes, liens and assessments paid.
- (d) Eighteen (18) copies of proposed plan.
- (e) Affidavit of ownership/authorization form.
- (f) Site inspection authorization.
- (g) Compliance with legal notice requirements including proof of publication and proof of service (except minor subdivisions and minor site plan not requiring variances).
- (h) Corporation or partnership form.
- (i) Listing of all variances, design standards, checklists waivers and justification.
- (j) Copies of all prior resolutions pertaining to the subject property.
- (k) Two recent photographs of the property (except minor subdivisions).
- (l) Copy of Sussex County Planning Board Application.
- (m) Copy of Soil Erosion/Sediment Control Application (except minor subdivisions).
- (n) Copy of NJDOT/NJDEP applications.

240-4.B MINOR SUBDIVISION PLAT

240-4.B(1) The minor subdivision plat shall be based on tax map information or some other similarly accurate base and shall show or be accompanied by the following information:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project, if any.
- (h) Date of map preparation and each subsequent revision.
- (i) Zoning district of parcel and surrounding lands.
- (j) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (k) Existing structures within 200 feet (200') and distance to property line.
- (l) Each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor with street address from the 911 Coordinators.

- (m) Copy of Sussex County Planning Board application.
- (n) Scale of map, both written and graphic.
- (o) North arrow giving reference meridian.
- (p) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (q) Tax map sheet number.
- (r) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (s) Area of entire tract.
- (t) Metes and bounds of proposed lot(s).
- (u) Area and frontage of proposed lot(s).
- (v) Area/frontage of remaining tract.
- (w) Property lines to the nearest hundredth.
- (x) Bearings to the nearest second.
- (y) Lot acreage to the nearest hundredth.
- (z) Building envelopes.
- (aa) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (bb) Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcroppings.
- (cc) Existing/proposed driveway locations with sight distance profiles.
- (dd) Road locations, names, with right-of-way.
- (ee) Sight triangle, drainage, utility, driveway and other easements.
- (ff) Provisions for certification and approvals.
- (gg) If wetlands are present, a delineation is needed and an absence/presence letter to determine buffer width.
- (hh) Written confirmation from Tax Assessor that proposed lot numbers are acceptable.
- (ii) Copy of current deed and all easements/restrictions.
- (jj) A CAD file of subdivision for tax map updates.

240-4.C

240-4.C(1)

MAJOR SUBDIVISION PRELIMINARY PLAT

The preliminary plat shall be clearly and legibly drawn by a land surveyor or Engineer licensed in the State of New Jersey. The plat shall be designed in compliance with the provisions of section 240-8 of this Chapter, and shall show or be accompanied by the following information:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project, if any.
- (h) Date of map preparation and each subsequent revision.
- (i) Zoning district of parcel and surrounding lands.
- (j) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (k) Existing structures within 200 feet (200') and distance to property line.
- (l) Each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor.
- (m) Copy of Sussex County Planning Board application.
- (n) Scale of map, both written and graphic.

- (o) North arrow giving reference meridian.
- (p) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (q) Tax map sheet number.
- (r) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (s) Area of entire tract.
- (t) Metes and bounds of proposed lot(s).
- (u) Area and frontage of proposed lot(s).
- (v) Area/frontage of remaining tract.
- (w) Property lines to the nearest hundredth.
- (x) Bearings to the nearest second.
- (y) Lot acreage to the nearest hundredth.
- (z) Building envelopes.
- (aa) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (bb) Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcroppings.
- (cc) Existing/proposed driveway locations with sight distance profiles.
- (dd) Open space, buffer zone, recreation areas, municipal and public areas and lands to be conveyed to the Town if applicable.
- (ee) Plan and profiles of road locations, type, size, width of right-of-way, paving materials, edge of pavement, curbs, sidewalks, catch basins, drainage structures, all utilities, rights-of-way easements, existing buildings or other structures. Profile shall be at a scale of 1 inch equals 5 feet vertical; 1 inch equals 50 feet horizontal.
- (ff) Road cross sections every fifty feet (50') along centerline at a scale of 1 inch equals 5 feet horizontal and vertical.
- (gg) Existing and proposed contours at five foot (5') intervals for slopes fifteen percent (15%) or greater; two foot (2') intervals for lesser slopes.
- (hh) Earthwork summary.
- (ii) Cut and fill limits.
- (jj) Location of proposed drainage structures, curbs, swales, berms, guide rails, edge of pavement, sidewalks.
- (kk) Construction details for drainage structures, curb, guide rail, pavement design, sidewalks.
- (ll) Existing/proposed driveway locations with sight distance profiles.
- (mm) Road locations, names, with right-of-way.
- (nn) Sight triangle, drainage, utility, driveway and other easements.
- (oo) Provisions for certification and approvals.
- (pp) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (qq) Written confirmation from Tax Assessor that proposed lot numbers are acceptable.
- (rr) Facility Impact Report, including:
 - [1] Sewer and water report.
 - [2] Sewer and water map.
 - [3] Traffic Impact Statement.
 - [4] Circulation/traffic map.
- (ss) Environmental Impact Statement.

- (tt) Multi-family residential housing units shall include provisions for the collection, disposition and recycling of materials designated in the Newton recycling Ordinance and provisions for solid waste, dumpster enclosure.
- (uu) Copies of protective covenants, deed restrictions or homeowner association documents.
- (vv) Building floor plan, elevation views and first floor elevation with overall building height.
- (ww) Compliance with ADA requirements.
- (xx) Copy of current deed and all easements/restrictions.

240-4.D

MAJOR SUBDIVISION FINAL PLAT

240-4.D(1)

The final plat shall be drawn in ink on tracing cloth or in a C.A.D. file reproducible on mylars in compliance with all the provisions of R.S. 46:23-9, et seq. The final plat shall show or be accompanied by the following:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project.
- (h) Date of map preparation and each subsequent revision.
- (i) Certification of accuracy by preparer.
- (j) Zoning district of parcel and surrounding lands.
- (k) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (l) Proposed developer's agreement.
- (m) Existing structures within 200 feet (200') and distance to property line.
- (n) Obtain each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor. Copy of Sussex County Planning Board application.
- (o) Scale of map, both written and graphic.
- (p) North arrow giving reference meridian.
- (q) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (r) Tax map sheet number.
- (s) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (t) Area of entire tract.
- (u) Metes and bounds of proposed lot(s).
- (v) Area and frontage of proposed lot(s).
- (w) Area/frontage of remaining tract.
- (x) Property lines to the nearest hundredth.
- (y) Bearings to the nearest second.
- (z) Lot acreage to the nearest hundredth.
- (aa) Building envelopes.
- (bb) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (cc) Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcroppings.
- (dd) Open space, buffer zone, recreation areas, municipal and public areas and lands to be conveyed to the Town if applicable.

- (ee) Plan and profiles of road locations, type, size, width of right-of-way, paving materials, edge of pavement, curbs, sidewalks, catch basins, drainage structures, all utilities, rights-of-way easements, existing buildings or other structures. Profile shall be at a scale of 1 inch equals 5 feet vertical; 1 inch equals 50 feet horizontal.
- (ff) Location of proposed drainage structures, curbs, swales, berms, guide rails, edge of pavement, sidewalks.
- (gg) Construction details for drainage structures, curb, guide rail, pavement design, sidewalks.
- (hh) Existing/proposed driveway locations with sight distance profiles.
- (ii) Road locations, names, with right-of-way.
- (jj) Sight triangle, drainage, utility, driveway and other easements.
- (kk) Provisions for certification and approvals.
- (ll) Letter itemizing all elements covered under performance guarantee.
- (mm) Letter of approval and certification from Town Engineer.
- (nn) Letter certifying conformance to preliminary plat by applicant's Engineer.
- (oo) "I certify that (NAME OF STREET OR STREETS) are approved roads by the Planning Board of the Town of Newton. Approval of this map shall not be construed as acceptance of said roadways indicated herein, nor shall such approval obligate the Town of Newton to maintain or exercise jurisdiction on said road or street until such time said road may be accepted by the Town of Newton."

Signature of _____
Town Clerk

- (pp) Copies of stream encroachment permit applications, if applicable.
- (qq) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (rr) Written confirmation from Tax Assessor that proposed lot numbers are acceptable.
- (ss) Copies of protective covenants, deed restrictions and homeowner's association documents.
- (tt) A CAD file of subdivision for tax map updates.
- (uu) Final as-built plan.

240-4.E
240-4.E(1)

MINOR SITE PLAN

The minor site plan shall be clearly and legibly drawn by a land surveyor or Engineer licensed in the State of New Jersey or other licensed professional qualified to prepare site plans. The plan shall show or be accompanied by the following information:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project, if any.
- (h) Date of map preparation and each subsequent revision.
- (i) Zoning district of parcel and surrounding lands.
- (j) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (k) Scale of map, both written and graphic.
- (l) North arrow giving reference meridian.

- (m) Tax map sheet number.
- (n) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (o) Area of entire tract.
- (p) Lot acreage to the nearest hundredth.
- (q) Building envelopes.
- (r) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles, and underground utilities.
- (s) Existing/proposed driveway locations.
- (t) Road locations, names, with right-of-way.
- (u) Sight triangle, drainage, utility, driveway and other easements.
- (v) Provisions for certification and approvals.
- (w) Soil erosion plans and details.
- (x) Lighting plan, including fixture and footing details, wattage, height, isolux patterns.
- (y) If wetlands are present, a delineation is needed and an absence/presence letter to determine buffer width.
- (z) Compliance with ADA requirements.
- (aa) Copy of current deed and verification of all utilities, easements and restrictions.
- (bb) Property survey signed and sealed by a New Jersey Licensed Surveyor.

240-4.F

240-4.F(1)

PRELIMINARY MAJOR SITE PLAN

The preliminary major site plan shall be clearly and legibly drawn by an Engineer licensed in the State of New Jersey or other licensed professional qualified to prepare site plans. The plan shall show or be accompanied by the following information:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project.
- (h) Date of map preparation and each subsequent revision.
- (i) Certification of accuracy by preparer.
- (j) Zoning district of parcel and surrounding lands.
- (k) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (l) Proposed developer's agreement.
- (m) Existing structures within 200 feet (200') and distance to property line.
- (n) Obtain each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor and obtain street address from the 911 Coordinators. Copy of Sussex County Planning Board application.
- (o) Scale of map, both written and graphic.
- (p) North arrow giving reference meridian.
- (q) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (r) Tax map sheet number.
- (s) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (t) Area of entire tract.
- (u) Property lines to the nearest hundredth.

- (v) Bearings to the nearest second.
- (w) Lot acreage to the nearest hundredth.
- (x) Building envelopes.
- (y) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (z) Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcroppings.
- (aa) Plan and profiles of road locations, type, size, width of right-of-way, paving materials, edge of pavement, curbs, sidewalks, catch basins, drainage structures, all utilities, rights-of-way easements, existing buildings or other structures. Profile shall be at a scale of 1 inch equals 5 feet vertical; 1 inch equals 50 feet horizontal.
- (bb) Existing and proposed contours at five foot (5') intervals for slopes fifteen percent (15%) or greater; two foot (2') intervals for lesser slopes.
- (cc) Earthwork summary.
- (dd) Cut and fill limits.
- (ee) Location of proposed drainage structures, curbs, swales, berms, guide rails, edge of pavement, sidewalks.
- (ff) Construction details for drainage structures, curb, guide rail, pavement design, sidewalks.
- (gg) Existing/proposed driveway locations with sight distance profiles.
- (hh) Road locations, names, with right-of-way.
- (ii) Sight triangle, drainage, utility, driveway and other easements.
- (jj) Provisions for certification and approvals.
- (kk) Soil erosion plan and details.
- (ll) Fire protection details include number of proposed units, available water supply, water main size, flow, hydrant location.
- (mm) Environmental Impact Statement.
- (nn) Landscape plan with types, quantity, size and location of plantings. Scientific and common names.
- (oo) Lighting plan, including fixture and footing details, wattage, height, isolux patterns.
- (pp) Drainage plan including runoff calculations for fifty (50) year storm frequency and a map showing drainage area.
- (qq) Storm drainage facilities improvements designed for one hundred (100) year floor capacity or as recommended by Town Engineer.
- (rr) Copies of stream encroachment permit applications, if applicable.
- (ss) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (tt) Facility Impact Report, including:
 - [1] Sewer and water report.
 - [2] Sewer and water map.
 - [3] Traffic Impact Statement .
 - [4] Circulation/traffic map.
- (uu) Building floor plan, elevation views and first floor elevation with overall building height.
- (vv) Provisions for solid waste, dumpster enclosure and recycling.
- (ww) Compliance with ADA requirements.

240-4.G

FINAL MAJOR SITE PLAN

240-4.G(1)

The Final major site plan shall be clearly and legibly drawn by an Engineer licensed in the State of New Jersey or other licensed professional qualified to prepare site plans. The plan shall show or be accompanied by the following information:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project.
- (h) Date of map preparation and each subsequent revision.
- (i) Certification of accuracy by preparer.
- (j) Zoning district of parcel and surrounding lands.
- (k) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (l) Proposed developer's agreement.
- (m) Existing structures within 200 feet (200') and distance to property line.
- (n) Obtain each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor. Copy of Sussex County Planning Board application.
- (o) Scale of map, both written and graphic.
- (p) North arrow giving reference meridian.
- (q) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (r) Tax map sheet number.
- (s) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (t) Area of entire tract.
- (u) Property lines to the nearest hundredth.
- (v) Bearings to the nearest second.
- (w) Lot acreage to the nearest hundredth.
- (x) Building envelopes.
- (y) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (z) Natural features including existing vegetation, wet areas, watercourse, flood plain limit, rock outcroppings.
- (aa) Plan and profiles of road locations, type, size, width of right-of-way, paving materials, edge of pavement, curbs, sidewalks, catch basins, drainage structures, all utilities, rights-of-way easements, existing buildings or other structures. Profile shall be at a scale of 1 inch equals 5 feet vertical; 1 inch equals 50 feet horizontal.
- (bb) Existing and proposed contours at five foot (5') intervals for slopes fifteen percent (15%) or greater; two foot (2') intervals for lesser slopes.
- (cc) Earthwork summary.
- (dd) Cut and fill limits.
- (ee) Location of proposed drainage structures, curbs, swales, berms, guide rails, edge of pavement, sidewalks.
- (ff) Construction details for drainage structures, curb, guide rail, pavement design, sidewalks.
- (gg) Existing/proposed driveway locations with sight distance profiles.
- (hh) Road locations, names, with right-of-way.
- (ii) Sight triangle, drainage, utility, driveway and other easements.
- (jj) Provisions for certification and approvals.
- (kk) Soil erosion plan and details.

- (ll) Fire protection details include number of proposed units, available water supply, water main size, flow, hydrant locations.
- (mm) Landscape plan with types, quantity, size and location of plantings. Scientific and common names.
- (nn) Lighting plan, including fixture and footing details, wattage, height, isolux patterns.
- (oo) Copies of stream encroachment permit applications, if applicable.
- (pp) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (qq) Facility Impact Report, including:
 - [1] Sewer and water report.
 - [2] Sewer and water map.
 - [3] Circulation/traffic report.
 - [4] Circulation/traffic map.
- (rr) Building floor plan, elevation views and first floor elevation with overall building height.
- (ss) Provisions for solid waste, dumpster enclosure and recycling.
- (tt) Compliance with ADA requirements.

240-4.H

240-4.H(1)

VARIANCE APPLICATION

An application for a variance from the requirements of the Zoning Ordinance pursuant to N.J.S.A. 40:55D-70 et seq. shall include the following:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project.
- (h) Date of map preparation and each subsequent revision.
- (i) Certification of accuracy by preparer.
- (j) Zoning district of parcel and surrounding lands.
- (k) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (l) Existing structures within 200 feet (200') and distance to property line.
- (m) Obtain each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor and obtain street address from the 911 Coordinators. Copy of Sussex County Planning Board application.
- (n) Scale of map, both written and graphic.
- (o) North arrow giving reference meridian.
- (p) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (q) Tax map sheet number.
- (r) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (s) Area of entire tract.
- (t) Property lines to the nearest hundredth.
- (u) Bearings to the nearest second.
- (v) Lot acreage to the nearest hundredth.
- (w) Building envelopes.

- (x) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (y) Road locations, names, with right-of-way.
- (z) Sight triangle, drainage, utility, driveway and other easements.
- (aa) Provisions for certification and approvals.
- (bb) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (cc) Building floor plan, elevation views and first floor elevation with overall building height.
- (dd) Graphic written description of area surrounding the site so the prevailing zoning and actual uses in the area are clear.
- (ee) A description of any alternatives that were considered.
- (ff) A statement or legal brief of why the variance should be granted.
- (gg) Copies of all relevant documents from the Zoning Officer.
- (hh) Copy of current deed and verification of all utilities, easements and restrictions.

240-4.1

240-4.1(1)

APPEAL OR INTREPTATION OF THE ZONING ORDINANCE

An application for an appeal or interpretation of the Zoning Ordinance pursuant to N.J.S.A. 40:55D-70 et seq. shall include the following:

- (a) Plan clearly and legibly drawn or reproduced at a scale not smaller than 1 inch equals 50 feet.
- (b) Sheet size, 24 x 36 inches.
- (c) Name, address, license number of plan preparer, signature, original raised seal.
- (d) Title block.
- (e) Record owner(s)' name and address.
- (f) Applicant's name, address, phone number, fax number and e-mail.
- (g) Name of project.
- (h) Date of map preparation and each subsequent revision.
- (i) Certification of accuracy by preparer.
- (j) Zoning district of parcel and surrounding lands.
- (k) Zoning chart listing existing/proposed requirements for area, setbacks, lot coverage, height, density, floor area, ratio, parking.
- (l) Existing structures within 200 feet (200') and distance to property line.
- (m) Obtain each block and lot numbered in conformity with the Municipal Tax Map as determined by the Municipal Tax Assessor and obtain street address from the 911 Coordinators. Copy of Sussex County Planning Board application.
- (n) Scale of map, both written and graphic.
- (o) North arrow giving reference meridian.
- (p) Properties within 200 feet, lot and block number and owner, outline of 200 foot perimeter.
- (q) Tax map sheet number.
- (r) Key map showing location of tract to be considered in relation to surrounding area, within 200 feet. Scale not less than 1 inch equals 400 feet and north arrow.
- (s) Area of entire tract.
- (t) Property lines to the nearest hundredth.
- (u) Bearings to the nearest second.
- (v) Lot acreage to the nearest hundredth.
- (w) Building envelopes.
- (x) Location of existing railroads, bridges, culverts, drainage pipe, water and sewer, utility poles and underground utilities.
- (y) Road locations, names, with right-of-way.

- (z) NJDEP Letter of Interpretation regarding the presence/absence of wetlands on property and within 150'. If wetlands are present, line verified by NJDEP and transition area established. NJDEP reference number on plan.
- (aa) Building floor plan, elevation views and first floor elevation with overall building height.
- (bb) Graphic written description of area surrounding the site so the prevailing zoning and actual uses in the area are clear.
- (cc) A description of any alternatives that were considered.
- (dd) A statement or legal brief of why the variance should be granted.
- (ee) Copies of all relevant documents from the Zoning Officer.
- (ff) Copy of current deed and verification of all utilities, easements and restrictions.

Section 240-5. Improvements

Subsections:

- 240-5.A Improvement Requirements.
- 240-5.B Streets.
- 240-5.C Street Name Signs.
- 240-5.D Curbs.
- 240-5.E Gutters.
- 240-5.F Top Soil Protection.
- 240-5.G Culverts, Storm Sewers, Water Mains and Sanitary Sewers.
- 240-5.H Performance Guarantee.
- 240-5.I Required Off-Tract Improvements
- 240-5.J Tax Map Maintenance

240-5.A IMPROVEMENT REQUIREMENTS

Prior to granting of final approval, developer shall have installed or shall have furnished performance guarantees for the ultimate installation of the following improvements:

240-5.B STREETS

All streets shall be surfaced in accordance with applicable standards and specifications of the Town. The construction shall be subject to inspection and approval by the Town Engineer.

240-5.C STREET NAME SIGNS

Street name signs shall be placed at all street intersections within or butting the subdivision. Signs shall be of a type approved by the Town and shall be placed in accordance with the standards of the Town of Newton.

240-5.D CURBS

Curbs shall be constructed and provided for in accordance with the standards and specifications of the Town. The construction shall be subject to inspection and approval by the Town Engineer.

240-5.E GUTTERS

Gutters shall be constructed in accordance with the standards and specifications of the Town when the grade exceeds seven percent.

240-5.F TOP SOIL PROTECTION

To the extent practicable no top soil shall be removed from the site or used as spoil.

240-5.G CULVERTS, STORM SEWERS, WATER MAINS AND SANITARY SEWERS

All such installations shall be properly connected with an approved system and shall be adequate to handle all present and probable future developments.

240-5.H PERFORMANCE GUARANTEE

No final plat shall be approved by the Planning Board until the completion of all such required improvements have been certified to the Planning Board by the Town Engineer, unless the subdivision owner has filed with the Town a performance guarantee in an amount not to exceed 120 percent of the cost of all such improvements, or uncompleted portions thereof, as approved by the Planning Board, and insuring the installation of such uncompleted portions thereof, as estimated by the Town Engineer, and insuring the installation of such uncompleted improvements on or before an agreed date. The performance guarantee may be in the form of a

performance bond, which shall be issued by a bonding or surety company approved by the Town Council, a certified check returnable to the subdivider after full compliance, or any other type of security approved by the Town Attorney. The performance guarantee shall be approved by the Town Attorney as to form, sufficiency and execution. The performance guarantee shall run for a period to be fixed by the Town Council upon the recommendation of the Planning Board, but in no case for a term of more than three years. However, with the consent of the owner and the surety, if there be one, the Town Council may by resolution extend the term of the performance guarantee for an additional period not to exceed three years, in accordance with and subject to the requirements of R.S. 40:55D-53, as amended. The amount of the performance guarantee may be reduced by the Town Council as provided for by statute and the Land Use Procedures Chapter. If the required improvements have not been installed in accordance with the performance guarantee, the obligor and surety shall be liable thereon to the Town for the reasonable cost of the improvements not installed and upon receipt of the proceeds thereof; the Town shall install such improvements.

240-5.1 REQUIRED OFF-TRACT IMPROVEMENTS

Pursuant to the provisions of R.S. 40:55D-42, construction of or contributions for off-tract water, sewer, drainage and street improvements may be required in accordance with the following criteria:

- 240-5.1(1) Improvements to be constructed at the sole expense of the applicant. In cases where an off-tract improvement or improvements is necessitated or required by the proposed development application, and where no other property owners receive a special benefit thereby, the Planning Board may require the applicant, as a condition of subdivision approval, at the applicant's sole expense to provide for and construct such improvements as if they were on-tract improvements in the manner provided hereafter and as otherwise provided by law.
- 240-5.1(2) Contributions by developer toward required off-tract improvements:
- (a) In cases where the need for any off-tract improvement is necessitated by the proposed development application, and where the Planning Board determines that properties outside the development will also be benefited by the improvements, such determination shall be made by the Planning Board in writing. Such resolution or determination of the Planning Board shall specify the off-tract improvements which were necessary and the terms and conditions which shall be imposed upon the applicant to insure their successful and reasonable implementation. In its deliberation as to whether off-tract improvements are required, the Planning Board shall be guided by the rules and regulations specified in the Zoning Chapter, this Chapter and the Town Master Plan. The Planning Board may also be guided by counsel from the Planning Board Attorney, Planning Board Engineer, any consultant and other qualified experts, and municipal officials relative to the subject matter.
 - (b) In the event that the Planning Board determines that one or more improvements constitute an off-tract improvement, the Planning Board shall notify the Town Council, specifying the Board's recommendation relative to the estimated cost of such improvements, the applicant's prorated share of the cost, and possible methods or means to implement the improvements, including but not limited to, performance and maintenance guarantees, cash contributions, development agreements and other forms of surety.
 - (c) The Planning Board shall not grant final approval on the subdivision until all aspects of such conditions have been mutually agreed to by both the applicant and the Town Council, and a written resolution to that effect by the Town Council has been transmitted to the Planning Board.

- 240-5.1(3) Methods of implementation:
- (a) Performance and maintenance guarantees. Where a performance or maintenance guarantee or other surety is required in connection with an off-tract improvement, the applicant shall be required to follow the same procedures and requirements as specified in this Chapter for other improvements.
 - (b) Development agreement. Where a development agreement is required governing off-tract improvements or other conditions as may be required by this Chapter, such agreement shall be approved by the Town Council after review as to form, sufficiency and execution by the Town Council. The agreement shall specify the amount of cash contributions, if any, the method of payment, the relative timing of such payment, and the obligation or obligations to be undertaken by the Town.
 - (c) Cash contributions, when not required. Cash contributions for off-tract improvements shall not be required under the following conditions:
 - [1] Where another County or State agency has jurisdiction over the subject improvement and requires a cash contribution, guarantee or other surety of the applicant in lieu of such conditions imposed by the Town, or
 - [2] Where a benefit assessment or other similar tax levy is imposed upon the applicant for the off-site improvement provided, or
 - [3] Where the applicant, where legally permissible, can undertake the improvements in lieu of the Town of Newton undertaking the improvement, subject to standards and other conditions as may be imposed by the Town.
 - (d) Cash contributions, method of payment. Where a cash contribution is required by this Chapter, the contribution shall be deposited with the Town Treasurer with a copy of the applicant's transmittal letter forwarded to the Town Council, the Town Engineer and Planning Board. Any and all monies received by the treasurer shall be deposited in an escrow account for the purpose of undertaking the improvements specified. Where such improvements are not undertaken or initiated for a period of ten years, the funds may be retained by the Town and may be used for general municipal purposes. In such event, neither the applicant nor any of his heirs, executors, administrators, or grantees shall be liable to the Town for any assessment for the purpose of installing any of the improvements for which the cash contribution was made.

- 240-5.1(4) Pro-rata formula for determining applicant's share of off-tract improvements. Where an off-tract improvement is required, the following criteria shall be utilized in determining the proportionate share of such improvement to the applicant:
- (a) Street widening, alignment, corrections, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere, and the construction of new streets and other similar street or traffic improvements. The applicant's proportionate share shall be in the ratio of the estimated peak hour traffic generated by the proposed property or properties, to the sum of the present deficiency in peak hour traffic capacity of the present facility, and the estimated peak hour traffic generated by the proposed development. The ratio thus calculated shall be increased by ten percent for contingencies.
 - (b) Water distribution facilities, including the installation of new water mains, the extension of existing water mains, the relocation of such facilities, and the installation of appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated daily use of water from the property or properties in gallons to the sum of the deficiency in gallons per

day for the existing system or subsystem, and the estimated daily use of water for the proposed development. The ratio thus calculated shall be increased by ten percent for contingencies.

- (c) Sanitary sewer distribution facilities including the installation, relocation or replacement of collector and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated daily flow in gallons to the sum of the present deficient capacity for the existing system or subsystem and the estimated daily flow from the proposed project or development. In the case where the peak flow for the proposed development may occur during the peak flow period for the existing system, the ratio shall be the estimated peak flow rate from the proposed development in gallons per minute, to the sum of the present peak flow deficiency in the existing system or subsystem and the estimated peak flow rate from the proposed development. The greater of the two ratios thus calculated shall be increased by the ratio used to determine the cost to the applicant.
- (d) Storm water and drainage improvements, including installation, relocation or replacement of transmission lines, culverts, catch basins and the installation, relocation or replacement of other appurtenances associated therewith. The applicant's proportionate cost shall be in the ratio of the estimated peak surface run-off as proposed to be delivered into the existing system measured in cubic feet per second, to the sum of the existing peak flow in cubic feet per second deficiency for the existing system and the estimated peak flow as proposed to be delivered. The ratio thus calculated shall be increased by ten percent for contingencies. The applicant's Engineer shall compute the drainage basin area and the area occupied by the development. Where no drainage system exists which will receive the flow of surface water from the applicant's development, the applicant shall furnish all drainage rights-of-way deemed to be necessary by the Planning Board.
- (e) In calculating the proportionate or prorated amount of the cost of any required off-tract facilities which shall be borne by the applicant, the Planning Board shall also determine the pro-rated amount of cost to be borne by other owners of lands which will be benefited by the proposed improvements.

240-5.J

TAX MAP MAINTENANCE

The fees as outlined in Chapter 100 Fees and Costs, of the Newton Revised General Ordinances shall be paid by the applicant for the cost of updates and modifications to the Town of Newton's Tax Maps as a result of applications approved by the Newton Planning Board. The fee shall be paid at the time that the deed and/or plot plan is signed on behalf of the Board.

Section 240-6. Street and Stormwater Design Standards

Subsections:

- 240-6.A Design Standards Requirements
- 240-6.B General
- 240-6.C Streets
- 240-6.D Blocks
- 240-6.E Lots
- 240-6.F Public Use and Service Areas
- 240-6.G Stormwater Control
- 240-6.H Lot Dimensions

240-6.A DESIGN STANDARDS REQUIREMENTS

The developer shall observe the following requirements and principals of land development for site plan and subdivision design:

240-6.B GENERAL

The subdivision plat shall conform to design standards that will encourage good development patterns within the municipality. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats. Where no Master Plan or Official Map exists, streets and drainage rights-of-way shall be shown on the final plat and shall be such as to lend themselves to the harmonious development of the municipality and enhance the public welfare in accordance with the following design standards set out in this Chapter.

240-6.C STREETS

- 240-6.C(1) The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
- 240-6.C(2) Subdivisions abutting arterial streets shall provide a marginal service road or reverse frontage with a buffer strip for planting, or some other means of separation of through and local traffic as the Planning Board may determine appropriate.
- 240-6.C(3) The right-of-way width of every street shall be measured from lot line to lot line and shall not be less than 50 feet in width, or such greater width as shown on the official or the adopted Master Plan, except that the Planning Board in its discretion, may permit marginal access streets and alleys having a width of not less than 40 feet. The right-of-way width for internal roads in commercial and industrial developments shall be determined on an individual basis, and shall in all cases be of sufficient width and design to safely accommodate the maximum traffic, parking and loading needs and maximum access for fire fighting equipment.
- 240-6.C(4) No subdivision showing reverse strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed with the governing body under conditions approved by the Planning Board.
- 240-6.C(5) Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or Official Map or the street width requirements of this Chapter, shall dedicate additional width along either one or both sides of said road. If the subdivision is along one side only, one-half of the required extra width shall be dedicated.
- 240-6.C(6) Grades of arterial and collector streets shall not exceed four percent. Grades on other streets shall not exceed ten percent. No street shall have a minimum grade of less than one-half of one percent.

- 240-6.C(7) Street intersections shall be as nearly at right angles as is possible and in no case be less than 60 degrees. The block corners at intersections shall be rounded at the curb line with the curve having a radius of not less than 25 feet.
- 240-6.C(8) Street jogs with center line offsets of less than 125 feet shall be prohibited.
- 240-6.C(9) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
- 240-6.C(10) When connecting street lines deflect from each other at any one point by more than ten degrees and not more than 45 degrees, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- 240-6.C(11) All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
- 240-6.C(12) Dead-end streets shall not be longer than 600 feet and shall provide a turn around at the end with a radius of not less than 42 feet and tangent whenever possible to the right side of the street.
- 240-6.C(13) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
- 240-6.C(14) Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivisions.
- 240-6.C(15) Private streets shall not be approved nor shall public improvements be approved for any private street.

240-6.D BLOCKS

- 240-6.D(1) Block length and width of acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Zoning Ordinance, and to provide for convenient access, circulation control and safety of street traffic. Block lengths shall not under any circumstances exceed 1,200 feet.
- 240-6.D(2) In blocks over 1,000 feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Board. Such walkway shall be ten feet wide and be straight from street to street.
- 240-6.D(3) For commercial, group housing, or industrial use, block size shall be sufficient to meet all area and yard requirements for such use.

240-6.E LOTS

- 240-6.E(1) Lot dimensions and area shall not be less than the requirements of the Zoning Ordinance.
- 240-6.E(2) Insofar as is practical, lots shall be rectangular in shape with side lot lines at right angles to straight streets and radial to curved streets.
- 240-6.E(3) Each lot must front upon an approved street at least 50 feet in width, except lots fronting on marginal access streets described in Subsection 240-6.C(3) of this Chapter.
- 240-6.E(4) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- 240-6.E(5) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as shape, sight distances, topography, rock formations, wetlands, flood conditions or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots.
- 240-6.E(6) Corner lots for residential use shall have extra width to permit appropriate building setbacks from and orientation to both streets.

240-6.F PUBLIC USE AND SERVICE AREAS

240-6.F(1) In large scale developments, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least 15 feet wide and located in consultation with the companies or municipal departments concerned.

240-6.F(2) Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the line of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.

240-6.F(3) Natural features of every lot shall be sufficient to provide amply for the front, rear and side yard requirements of the Zoning Ordinance of the Town for the district or zone within which the land is located and the use for which the land is intended to be used.

240-6.G STORMWATER CONTROL

Projects which meet the definition of "major development" as defined in Subsection 240-2 Definitions, shall comply with all standards set forth in Chapter 258, Stormwater Control.

240-6.H LOT DIMENSIONS

The dimensions of every lot shall be sufficient to provide for the front, rear and side yard requirements set forth in the Zoning Ordinance of the Town for the district or zone within which the land is located, and the areas shall provide adequate space as is dictated by good planning for which the land is intended to be used.

Section 240-7. Subdivision and Site Plan General Design Standards

Subsections:

240-7.A(1)	General Design Standards
240-7.A(2)	Design and Building Layout
240-7.A(3)	Landscaping
240-7.A(4)	Buffering
240-7.A(5)	Open Space
240-7.A(6)	Signs
240-7.A(7)	Utilities
240-7.A(8)	Street Furniture
240-7.A(9)	Topsoil Protection
240-7.B	Specific Design Standards
240-7.C	Outdoor Lighting
240-7.D	Utilities
240-7.E	Monuments
240-7.F	Storage and Disposal of Waste
240-7.G	Streets
240-7.H	Sidewalks
240-7.I	Traffic Signs and Control Devices
240-7.J	Street Trees
240-7.K	Street Furniture
240-7.L	Sight Triangle
240-7.M	Walls and Fences

240-7.A(1) GENERAL DESIGN STANDARDS

In reviewing any application for development, the Board shall consider the following standards, however where applicable, Residential Site Improvement Standards may apply:

240-7.A(1)(a) Circulation.

- [1] The Board shall consider pedestrian and vehicular traffic movement within and adjacent to a lot or tract with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the lot or tract, between buildings and between buildings and vehicles. In site plans, the Board shall determine which roads shall be public and which shall remain private.
- [2] The Board shall ensure that all parking areas are landscaped and spaces are usable and are safely and conveniently arranged. Access to a lot or tract from adjacent roads shall be designed so as to interfere as little as possible with traffic flow and to permit vehicles a safe ingress and egress to the lot or tract.
- [3] The circulation plan of each development shall reflect the Master Plan's circulation plan element. Major access improvements in critical environmental areas shall be discouraged. The location and provision of bikeways, sidewalks and other pedestrian linkages shall be encouraged and clearly indicated as outlined in subsection 240-7.H.
- [4] Applicants shall be encouraged to develop and implement transportation options where appropriate, i.e. mass transit programs, the use of vans, carpooling, construction of bike paths and bike storage areas and construction of convenient bus pickup and drop-off points. In order to minimize peak-hour traffic impacts, applicants shall encourage staggered starting and quitting times and changes in work hours where appropriate and include the details within the application to the Board.

- [5] All development adjacent to or otherwise involving New Jersey State Highway Route 206 shall conform with the State Highway Access Management Code adopted by the Commissioner of Transportation under Section 3 of the State Highway Access Management Act, N.J.S.A. 27:7-91. Any development adjacent to or involving a County road within the Town shall conform with the Access Management Code adopted by the County of Sussex, N.J.S.A. 27:16-1. Land development adjacent to or involving an existing or proposed municipal street shall conform with any municipal access management code adopted pursuant to N.J.S.A. 40:67-1.
- [6] Pedestrian walkways and bikeways shall be designed where appropriate as outlined in the Town's Circulation Plan Element and according to Subsection 20-22.5 Minimum Design Standards for Complete Streets .

240-7.A(2) DESIGN AND BUILDING LAYOUT

- 240-7.A(2)(a) The design and layout of buildings and parking areas shall meet the requirements of Chapter 320. Particular attention shall be given to energy conservation, safety and fire protection and impact on surrounding development. Architectural design shall meet the requirements of Chapter 320, or if in the Historic District, also Chapter 139.
- 240-7.A(2)(b) Fire escapes shall be constructed only against the side or rear wall of a building and shall be located and/or screened so as not to detract from the appearance of such buildings.
- 240-7.A(2)(c) All new buildings shall strengthen the particular design features of their locale, by, for example, framing scenic views, defining and inviting the use of open spaces or continuing particular and desirable design features or statements. Design standards from Chapter 320 and if in the Historic District, Chapter 139 shall apply.
- 240-7.A(2)(d) The rhythm of structural mass to voids, such as windows and entries, of a front facade shall relate to rhythms established in adjacent buildings if the rhythms of such adjacent buildings are aesthetically pleasing.
- 240-7.A(2)(e) If several storefronts are to be located in one building or are to be developed on lots where zero lot lines are permitted or required, such storefronts shall be unified in overall design treatment, particularly as to the design of windows and door openings, and the use of materials and colors. All storefronts shall include display windows with a sill height of not more than two feet from grade. Commercial buildings containing separate stores or open spaces shall be designed with architectural relief and interesting facade treatment to suggest the creation of separate spaces instead of repeated spaces of the same visual appearance.
- 240-7.A(2)(f) All building additions shall be designed to reflect the existing building in terms of scale, materials, fenestration and color. A change in scale may require a transitional design element between the addition and the existing building. Facade renovations should include as few different materials as possible.
- 240-7.A(2)(g) Where large structures are required, massing and blank walls shall be avoided as much as possible and, where necessary, relieved by variation and architectural relief and details. Excessively expansive blank walls are prohibited. Off-sets are needed every 80 feet. Building offsets shall be provided along each building wall to relieve the visual effect of a singly long wall. Rooflines shall also be varied. An individual building shall use a combination of story heights to provide further visual relief. Building designs should incorporate details such as masonry chimneys, cupolas, dormers and similar features of architectural appeal.
- 240-7.A(2)(h) Roof shape and material shall be architecturally compatible with the rest of the building and shall reflect surrounding patterns.
- 240-7.A(2)(i) Materials shall be selected for suitability to the type of buildings and the design in which they are to be used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.

- 240-7.A(2)(j) Colors shall be selected to be harmonious. Only compatible accent colors shall be used. Building colors should reflect earth tones or historical colors. Accent or complimentary colors, harmonizing with the main color, may be used for trim, awnings and other accents.
- 240-7.A(2)(k) Environmental considerations. Environmental elements relating to prevention of soil erosion, protection of significant vistas or views, preservation of trees and protection of watercourses, resources, topography, soil and animal life shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements. The requirements of Subsections 240-12 Riparian Corridors, Subsection 240-11 Steep Slopes, and Subsection 240-10 Wellhead Protection shall apply.

240-7.A(3) LANDSCAPING

- 240-7.A(3)(a) Landscaping shall be provided as part of any overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping includes trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art, fountains, planters and/or the use of building and paving materials in a fashion that is aesthetically pleasing in a design that is acceptable to the Planning Board.
- 240-7.A(3)(b) The existing sense and appearance of any natural scenic qualities on a tract shall be retained by the careful placement of buildings and improvements.

240-7.A(4) BUFFERING

- 240-7.A(4)(a) Buffering shall be located to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles and to shield activities from adjacent properties when necessary. Buffering may include but not be limited to fencing, walls, evergreens, shrubs, landscaping, berms, rocks, boulders, open space, ponds, steep slopes, deciduous trees, or combinations thereof, to achieve the stated objectives.
- 240-7.A(4)(b) Extensive buffering shall be required where intensive land uses abut less intensive uses. Existing natural vegetation, if appropriate for the above-stated purposes, shall be retained.

240-7.A(5) OPEN SPACE

- 240-7.A(5)(a) Open space shall be provided as part of a site plan and shall serve as a buffer and/or help integrate buildings and uses. Undeveloped open space should have as a prime objective the preservation of a tract's natural amenities and vistas. Ponds, rock outcroppings, wooded areas, steep slopes, ravines and streambeds are prime lands recommended for undeveloped open space.
- 240-7.A(5)(b) Open spaces shall be located to provide for maximum usability and to create a harmonious relationship between buildings.

240-7.A(6) SIGNS

- 240-7.A(6)(a) Signs shall be designed so as to be aesthetically pleasing, coordinated with other signs on the site and in the area through a master signage plan and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
- 240-7.A(6)(b) Design theme. There should be a coordinated graphics design theme throughout any site plan. The design theme shall include style and size of lettering, construction materials, colors, location, type of pole or standard, size and lighting. Color of letters and background should be carefully considered in relation to the color of the material or buildings or where the signs are proposed to be located. Size and style shall meet the requirements of Chapter 320.
- 240-7.A(6)(c) Location. Signs should be located so as not to create a hazard. The location of signs should be selected in terms of traffic visibility.

240-7.A(7) UTILITIES

- 240-7.A(7)(a) The storm drainage system, sanitary waste disposal system, water supply system, solid and sanitary waste collection and disposal plan and electrical and other distribution systems shall be reviewed and approved.
- 240-7.A(7)(b) Utilities shall be located underground for all new developments. In such event that certain aspects of utilities cannot be installed underground, facilities such as pumping stations or transformers shall be enclosed in buildings or effectively screened with landscaping and/or buffering as approved by the Board.
- 240-7.A(7)(c) Particular emphasis shall be given to the establishment of drainage rights-of-way, analysis of the adequacy of existing systems and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage, provide for treatment of effluent and to maintain an adequate supply of potable water at sufficient pressure.
- 240-7.A(7)(d) Any proposed development which shall be adjacent or proximate to, or otherwise involve, potable water supply reservoirs or wells shall include adequate and suitable protections for such potable water supply from pollution or other degradation of water quality resulting from the development, or other uses of surrounding land areas. All such provisions shall be in accordance with Subsection 240-10 Wellhead Protection.

240-7.A(8) STREET FURNITURE AND STREET TREES

The site plan shall provide for street furniture made of the same or similar materials to ensure design continuity and be appropriate to the particular use. These may include, but not limited to, public art, benches, bike racks, trash receptacles, bus shelters, tree planters and directories. Street trees shall be planted where deemed necessary by the Planning Board along the frontage of any proposed development.

240-7.A(9) TOPSOIL PROTECTION

To the extent practicable, no topsoil shall be removed from the site or used as spoil. Topsoil stripped and stockpiled during the course of construction shall be redistributed so as to provide at least four inches of even cover to all areas of the development and shall be stabilized by seeding or planting.

240-7.B SPECIFIC DESIGN STANDARDS

In reviewing any application for development, the Board shall consider the following standards. Where applicable, the Residential Site Improvement Standards (RSIS), as amended from time to time, shall apply.

- 240-7.B(1) Blocks. Block length and width or acreage within surrounding roads shall be such as to accommodate the size of lots required in the area by this Chapter and to provide for convenient access, circulation control and safety of street traffic.
- 240-7.B(2) Lots. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- 240-7.B(3) Where extra width has been dedicated for the widening of existing streets, lot areas shall begin at such extra line and setbacks shall be measured from such line.
- 240-7.B(4) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as but not limited to wetlands, rock formations, areas of subsidence or flood conditions, the Board may withhold approval of such lots.
- 240-7.B(5) General buffers
 - (a) Visual screens provided through landscaping shall be designed in such a manner as to provide a barrier on a year-round basis around the view of the area to be screened.
 - (b) Existing vegetation within the buffer shall be preserved, where possible, and supplemented with plantings and other buffer devices to provide screening of residences.
 - (c) Buffer dimensions shall be measured from property lines.

- (d) Within any buffer area, utilities, driveways and streets may be permitted to cross at right angles to the buffer.
- (e) No buildings, signs (other than directional signs), structures, storage of materials or parking shall be permitted within the buffer area.
- (f) All plantings shall be installed according to accepted horticultural standards.
- (g) When required. Buffering shall be required when topographical, natural vegetative or other barriers do not provide reasonable screening and when the Board determines that there is a need to shield the site from adjacent properties to minimize adverse impacts such as incompatible land uses, noise, glaring light and traffic. In small lot developments, when building design and siting do not provide privacy, the Board may require landscaping, fences or walls to ensure privacy and screen dwelling units. Required buffering shall be maintained for the life of the project.
- (h) Dimensional requirements. Where more intensive land uses abut less intensive uses, a buffer strip of a width of not less than 20 feet shall be designed and maintained. The length of such strip shall be designed to fulfill the function identified in (i) of this section. Parking areas, garbage collection and utility areas and loading and unloading areas shall be buffered around their perimeter by a buffer strip having a minimum width of 20 feet. Where residential subdivisions abut higher order streets such as collectors or arterials, lots should front on lower order streets, and a landscaped buffer area shall be provided along the roadway. The buffer strip shall be a minimum of 25 feet wide but not to exceed 10% of any single lot area. For reasons of public health, safety or welfare, these requirements may be reasonably increased by the Board. Trees and shrubs shall be required in such instances.
- (i) Design. Arrangement of plantings in buffer shall provide maximum protection to adjacent properties and avoid damage to existing plant material. The plantings shall be arranged in double staggered rows. If planting berms are used, the minimum top width shall be four feet and the maximum side slope shall be 2:1. No berm shall be so high in height or mass as to be disproportionate to the characteristics of its setting.
- (j) Planting specifications. Plant materials shall be a minimum of six feet in height and planted in such a fashion that a screen at least eight feet in height shall be produced within three growing seasons. All plantings shall be deer resistant, such as Blue Spruce, and installed according to accepted horticultural standards.
- (k) Maintenance. Plantings shall be watered regularly with a sprinkler system or other means preferably using recycled water in a manner appropriate for the specific plant species through the first growing season, and dead or dying plants shall be replaced by the developer during the next planting season. No buildings, structures, storage of materials or parking shall be permitted within the buffer area. Buffer areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass.
- (l) Basic standards. The following buffer requirements shall apply unless it is shown or apparent to the Board that an alternative arrangement is more suitable:
 - [1] Along the side and rear lot lines of all commercial industrial and other nonresidential uses: 20 feet.
 - [2] Along the front lot line of light industrial, manufacturing or other higher intensity nonresidential uses: 20 feet.
 - [3] Along the side & rear lot lines of nonresidential uses that abut residential zones and uses: 25 feet.
 - [4] Along the front lot lines of multifamily residential uses: 25 feet. Except in the T-5 and T-6 Zones.

- [5] Buffers need not be added cumulatively to setback requirements; a buffer area shall instead be an overlay of a required setback.

240-7.B(6) Landscaping, Tree Protection and Replacement

- (a) All lots, regardless of the type of use, shall have a minimum of 15% (except in the T-6 zone) of the lot landscaped. All areas not occupied by buildings, parking areas, patios, walkways and/or any other impervious surface shall be suitably landscaped. No landscaping shall interfere with required sight triangles.
- (b) Deciduous trees shall have at least a three-and-one-half-inch dbh and 12 feet in height at planting, and evergreen trees shall be at least six feet tall. All trees shall be balled and burlapped and be of specimen quality as established by the American Association of Nurserymen.
- (c) Any landscaping which, within two years of planting, dies, for any reason, shall be replaced by the developer(s) at his expense by means of a developer's agreement or a bond agreement as determined by the Town Council.
- (d) Tree protection and replacement must be undertaken as part of the site plan. All existing trees over three inches in dbh shall be surveyed and shown on the site plan with the species, dbh, and removal status. Trees shown to be removed shall be replaced with trees that will equal fifty percent of the total dbh at the time of planting to replace the trees proposed for removal. For example, if a 10 inch dbh tree is proposed to be removed the developer should propose to replace it with a 5 inch dbh tree. Where a developer cannot or does not wish to replace all trees on the site, that developer may pay a fee per tree into the Town of Newton Tree Bank at a fee as established in Chapter 100 Fees and Costs.
- (e) The following landscape principles shall be considered:
 - [1] Landscaping shall be located to provide for climate control.
 - [2] Landscaping shall be used to accent and complement buildings.
 - [3] Landscaping shall be provided in public areas, parking areas, recreation sites and adjacent to buildings.
 - [4] Vines and climbing plants shall be considered for large expanses of wall.
 - [5] Massing trees shall be considered at critical points.
 - [6] Smaller trees shall be used on narrow streets.
 - [7] Ground cover shall be used to prevent erosion.
 - [8] A variety and mixture of landscaping shall be provided. Consideration shall be given to susceptibility to disease, colors, season, textures, shapes, blossom and foliage in selecting species.
 - [9] Local soil conditions and water availability shall be considered in the choice of landscaping.
 - [10] Existing trees located within 10 feet of any street right-of-way shall be maintained unless shown to be removed as part of an approved plan. The existing grade within that space shall not be disturbed without such approval.
 - [11] Entrances to nonresidential lots shall be given special landscaping treatment.
 - [12] The impact of any proposed landscaping plan at various time intervals shall be considered. Shrubs may grow and eventually block sight distances. Foundation plants may block out buildings.
 - [13] Existing large trees (more than six-inch dbh) not proposed for removal shall be saved by not varying the grade around the trees by more than six inches to 12 inches within the drip circle, by construction of tree wells and by erecting protective fences. Clumps or masses of trees shall be protected. All buildings shall be sited to preserve the maximum number

of trees on the site. Existing large trees over 12 inches dbh should be given special consideration for preservation.

[14] Landscaping in parking areas shall be provided in accordance with this article.

[15] Impervious materials are discouraged in any landscape area. Weed retardant mulch, porous nonwoven synthetic landscape fabric or other materials shall be used.

[16] Decorative stones are discouraged as a ground cover. Vegetative ground cover is encouraged.

[17] On site re-use of rainwater and grey water for irrigation is encouraged.

240-7.B(7)

Fences or walls

(a) Fences or walls in excess of 18 inches in height shall be considered as accessory uses to a principal permitted use and shall be permitted in accordance with the general standards set forth below:

(b) Wherever possible, natural screening shall be used to achieve privacy. However, where a privacy fence appears to offer a better alternative than the absence of such fence or natural screening due to circumstances involving the characteristics of the affected properties, fences conforming to this section shall be permitted.

(c) The finished side of all fence surfaces shall face adjacent properties.

(d) No fence shall be erected of barbed wire or similar harmful elements, nor constructed in any manner which might be dangerous to persons or animals, except that this restriction shall not apply to farms.

(e) No fence or wall shall be erected in a prescribed sight triangle.

(f) No fence anywhere in a front yard, including a fence running along or approximately parallel to a side lot line within a front yard, shall be more than four feet high.

(g) No fence, running substantially along a rear lot line, or approximately parallel thereto, or otherwise in a rear yard, shall exceed six feet in height measured from average grade corresponding to each eight-foot section of fencing. If such fence has decorative scalloped panels or pickets along its upper edge, height may be measured to the lowest point of such edge, thus allowing posts and corresponding elements to exceed the height limitation of this Subsection, but in no event by more than one foot. Where a rear yard or side yard of a corner lot abuts a side lot line and front yard of an adjacent lot, then in no event shall a fence in such rear or side yard on the corner lot exceed four feet in height such portion thereof which lies parallel to or otherwise substantially alongside the front yard of the adjacent lot.

(h) All fencing other than a stone fence, stone (or masonry) wall, or iron decorative type fence shall be constructed of wood or a material that is relatively indistinguishable from wood.

(i) Walls of masonry or natural stone (not retaining walls), such as New England drywalls and rows of fieldstone, shall not exceed a height of four feet.

(j) Without limitation hereto, the following fences and fencing materials are specifically prohibited:

[1] Barbed wire or other hazardous construction or material unless on a farm;

[2] Canvas, fabric or cloth fences;

[3] Electrically charged fences unless on a farm;

[4] Temporary fences, such as snow or silt fences, except as the latter may be necessary during development or other approved land disturbance;

[5] Plastic slats or other inserts in woven wire fences.

[6] Any fence, wall or similar structure as well as shrubbery screening which substantially cuts off light or air or which may cause a nuisance,

dangerous condition or a substantial fire-fighting impediment shall be prohibited.

- [7] Notwithstanding subsection 240-7B(7)(h), woven wire fencing may be substituted for wood or simulated wood fencing for safety, a dog run or other appropriate reason; provided, however, that the closed loop edge shall be at the top, and no part of such fencing shall lie within a front yard.
- [8] Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with (BOCA) Building Officials and Code Administrators International.
- [9] Retaining wall: Any retaining wall 48 inches or greater in height shall be designed by a licensed professional Engineer and shall require a building permit.

240-7.C OUTDOOR LIGHTING

240-7.C(1) Purpose: The governing body of the Town of Newton does herein find that regulation of outdoor lighting in the Town of Newton is necessary to prevent misdirected or excessive artificial light, caused by inappropriate or misaligned light fixtures that produce glare, light trespass (nuisance light) and/or unnecessary sky glow; and also that such regulation is necessary to discourage the waste of electricity and to improve or maintain night-time public safety, utility and security.

240-7.C(2) All outdoor light fixtures installed and thereafter maintained other than those serving one and two family dwellings, shall comply with the requirements as specified below:

- (a) Where used for security purposes or to illuminate walkways, roadways and parking lots, only shielded light fixtures shall be used.
- (b) Where used for commercial and industrial purposes such as in merchandise display areas, work areas, platforms, signs, architectural, landscape or sports or recreational facilities, all light fixtures shall be equipped with automatic timing devices and comply with the following:
 - [1] Light fixtures used to illuminate flags, statues or any other objects mounted on a pole, pedestal or platform, shall use a narrow cone beam of light that will not extend beyond the illuminated object.
 - [2] Other upward directed architectural, landscape or decorative direct light emissions shall have at least ninety (90) percent of their total distribution pattern within the profile of the illuminated structure.
 - [3] Recreational and sports facility lighting shall be shielded whenever possible. Such lighting shall have directional and glare control devices, when necessary, to comply with Subsection 240-7.C(3) and be equipped with automatic timing devices.
 - [4] Externally illuminated signs including commercial Billboard, building identification or other similar illuminated signs, shall comply with the following:
 - [a] Top mounted light fixtures shall be shielded and are preferred.
 - [b] When top mounted light fixtures are not feasible, illumination from other positioned light fixtures shall be restricted to the sign area. Visors or other directional control devices shall be used to keep spill light to an absolute minimum. Internally illuminated signs are prohibited.
- (c) All other outdoor lighting shall use shielded light fixtures.
- (d) For commercial lighting after operating hours, only minimal lighting necessary for security purposes shall remain on, all other lighting shall be turned off, on motion sensors or on timers.

- (e) All floodlight type fixtures, once properly installed, shall be permanently affixed in the approved position.
- (f) Foundations supporting lighting poles not installed four (4) feet behind the curb shall not be less than 24 inches above ground.
- (g) When fifty percent or more of existing outdoor light fixtures are being replaced or modified, then all lighting must be made to conform to the provisions of this lighting ordinance.

240-7.C(3) Light Trespass (Nuisance Light)

- (a) All light fixtures, except street lighting, shall be designed, installed and maintained to prevent light trespass, as specified below:
 - [1] At a height of five (5) feet above the property line of subject property, illuminations from light fixtures shall not exceed 0.1 footcandles in a vertical plane on residentially zoned property.
 - [2] Outdoor light fixtures properly installed and thereafter maintained, shall be directed so that there will not be any objectionable direct glare source visible above a height of five feet from any property or public roadway.

Note: Light fixtures near adjacent property may require special shielding devices to prevent light trespass.

240-7.C(4) Illuminance and Luminance Requirements

- (a) Illuminance and luminance requirements shall be as set forth in the current editions of the IESNA Lighting Handbook and other IESNA publications and this ordinance shall adopt those standards.
- (b) Street lighting - Average IESNA illuminance recommendations should not be exceeded. IESNA average to minimum illuminance uniformity ratios are to be used as a guide for designing safe and adequate roadway lighting.
- (c) Outdoor Parking Facilities - Outdoor parking lot illuminance shall be based on certain illuminance specifications recommended by the IESNA, as contained in Schedule A.
- (d) All other illuminance uses shall not exceed IESNA recommendations.
- (e) Internally illuminated signs shall not exceed IESNA luminance recommendations.

240-7.C(5) Electric Utility Floodlights

- (a) No electric utility floodlight intended for property illumination shall be located within the public right-of-way on any public roadway or on any property unless:
 - [1] The luminaire is sufficiently shielded and aimed so that no objectionable direct glare source is visible at any point on the roadway where the viewing height is five feet or greater and when the distance from the mounting pole is seventy feet or greater.
 - [2] The property being illuminated does not exceed the maximum maintained illuminance levels to perform the lighting task prescribed in Subsection 240-7.C(4) - Illuminance and Luminance Requirements, of this Ordinance.
 - [3] All electric utility floodlights shall be subject to the requirements in Subsection 240-7.C(3) - Light Trespass (Nuisance Light), of this Ordinance.

240-7.C(6) On Site Outdoor Lighting Energy Conservation

- (a) The design and installation of outdoor lighting on the site of a subdivision or site plan shall be constructed so as to conform to the standards specified herein:
 - [1] All outdoor lighting not necessary for security purposes shall be reduced, activated by motion sensor devices or turned off during non-operating hours. Illuminated signs are excluded from this requirement.
 - [2] All lighting shall be designed to prevent misdirected or excessive artificial light and to maximize energy efficiency.

- 240-7.C(7) Submission of Plans
- (a) Submission of plans and evidence of compliance shall include the following:
 - [1] Description of outdoor light fixtures including component specifications such as lamps, reflectors, optics, angle of cutoff, supports, poles and include manufacturers catalog cuts.
 - [2] Locations and description of every outdoor light fixture and hours of operation.
 - [3] Maintained horizontal illuminance shown as footcandles (after depreciation).
 - [a] Maximum
 - [b] Minimum
 - [c] Average, during operating and non-operating hours.
 - [d] Average to minimum uniformity ratio.
 - [4] Computer generated photometric grid showing footcandle readings every ten (10) feet and the average footcandles.
 - [5] Foundation details for light poles.
 - [6] When not using IESNA recommendations, submit reasons and supply supporting documentation.

240-7.C(8) Prohibitions.
Searchlights or flashing or animated signs are prohibited.

- 240-7.C(9) Enforcement.
- (a) Violation of any provision of this Chapter shall be cause for an enforcement document to be issued to the violator by the Town's Code Enforcement Officer or the other official or enforcing agency designated by the Mayor and Council. The recipient of an enforcement document shall be entitled to a hearing in Municipal Court having jurisdiction to contest such action.
 - (b) Any person who violates any provision of this Chapter shall be subject to a civil penalty for each penalty of not more than \$1,250.00; imprisonment for a term not exceeding 90 days, a period of community service not exceeding 90 days, or any combination thereof. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.
 - (c) No provision of this Chapter shall be construed to impair any common law, statutory or regulatory cause of action or legal remedy thereof, or any personal injury or damage arising from any violation of this Chapter or from other law.

240-7.D UTILITIES

240-7.D(1) All wiring shall be laid underground.

240-7.D(2) Screening of exterior mechanical equipment.

- (a) Electrical and mechanical equipment shall be located within the interior of a building wherever possible. When an interior location is not practical, such equipment shall be placed in a location where it can be substantially screened from public view. Roof-mounted equipment should be situated towards the rear of the building on pitched roofs and shall be hidden with parapets or screens of materials on flat roofs which are in harmony with the building's architecture. The furnace exhaust should be boxed in to resemble a chimney.
- (b) Process equipment such as stacks, hoppers, compactors, bins, storage vessels, blowers, compressors, piping, ducting, conveyors and the like shall be located and screened so as to minimize the visual impact on adjacent properties.
- (c) Ground level utilities shall be screened so as to be unobtrusive when viewed from the public rights-of-way and adjacent uses.

240-7.E**MONUMENTS**

Monuments shall be installed in compliance with the requirements of N.J.S.A. 46:23-9.11q (the Map Filing Law). Monuments may be required delineating critical area easements and conservation easements at the discretion of the Board.

240-7.F**STORAGE AND DISPOSAL OF WASTE**

240-7.F(1)

Outdoor refuse and recycling containers shall be visually screened within a durable enclosure so as not to be visible from adjacent lots or sites, neighboring properties or streets.

240-7.F(2)

No refuse and recycling storage areas shall be permitted between a street and the front of a building.

240-7.F(3)

No refuse and recycling storage area shall be located so as to prevent natural runoff from such areas or impair the existing water quality of any stream, watercourse or aquifer.

240-7.F(4)

All materials or wastes which might cause fumes, dust, odor or which constitute a fire hazard or which may be edible or otherwise attractive to rodents, bears or insects shall be stored outdoors only if enclosed in sealed and covered containers which are adequate to eliminate such hazards. Containers shall be specified by the manufacturer to be animal resistant.

240-7.F(5)

Refuse and recycling collection areas shall be effectively designed to contain all refuse generated on site and deposited between collections.

240-7.F(6)

Refuse and recycling collection enclosures shall be designed of durable materials with finishes and colors which are unified and harmonious with the overall architectural theme.

240-7.F(7)

Refuse and recycling collection areas shall be located to provide clear and convenient access for refuse collection vehicles.

240-7.F(8)

Medical, hazardous or other regulated waste shall meet the State and Federal standards for such materials.

240-7.F(9)

Recycling facilities for new multifamily housing developments.

- (a) There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number and which are consistent with anticipated usage and with current methods of collection in the area in which the project is located.
- (b) The recycling area shall be conveniently located for the disposition of source-separated recyclable materials by residents of the multifamily housing development, preferably near, but clearly separated from, a refuse dumpster.
- (c) The recycling area shall be well lit and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area and the bins or containers placed therein against theft of recyclable materials, bins or containers.
- (d) Any bins or containers which are used for the collection of recyclable paper or cardboard and which are located in an outdoor recycling area shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.
- (e) Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

- (f) Landscaping and fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

240-7.G STREETS

- 240-7.G(1) All streets shall be constructed in accordance with the Town's road standards. Where applicable, the Residential Site Improvement Standards, as amended from time to time, shall apply.
- 240-7.G(2) The arrangement of streets shall be such as to provide for the appropriate extension of existing streets. New road systems shall be in accordance with the Master Plan.
- 240-7.G(3) Minor streets shall be so designed as to discourage through traffic.
- 240-7.G(4) Developments abutting through traffic streets may be required to provide a marginal service road or some other means of separation of through and local traffic as the Board may determine. Major arterial streets shall not be entered by new streets other than major collector streets.
- 240-7.G(5) Developments which adjoin or include existing streets and the streets do not conform to widths, as shown on the Master Plan, or the street width requirements of this Chapter, shall dedicate, by deed, additional width along either one or both sides of said street. If the development is along one side only, 1/2 of the required extra width shall be dedicated. Grades of through traffic streets and collector streets shall not exceed 10%. Grades on other streets shall not exceed 12%. Streets shall have a minimum grade of 1%.
- 240-7.G(6) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded at the property line with a curve radius of not less than 25 feet.
- 240-7.G(7) Street jogs with center line offsets of less than 125 feet shall be prohibited.
- 240-7.G(8) A tangent at least 100 feet long shall be introduced between reverse curves on through traffic and collector streets.
- 240-7.G(9) When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a center line radius of not less than 100 feet for minor streets and 300 feet for through traffic and collector streets.
- 240-7.G(10) All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
- 240-7.G(11) Dead-end streets (culs-de-sac) shall provide a turnaround at the end with a pavement radius of not less than 42 feet and tangent, whenever possible, to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions shall be made for future extension of the street, reversion of the excess right-of-way to the adjoining properties and removing cul-de-sac pavement. Planting islands of sufficient size to accommodate trees and shrubs are encouraged.
- 240-7.G(12) Street appurtenances.
 - (a) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
 - (b) Guiderails shall be designed to prevent cars from leaving the road. They shall be installed where danger exists to the traveling public due to steep topography, narrow roadways, location of drainage ditches or other similar conditions.
 - (c) Streetlights shall be installed at street intersections, along vertical and horizontal curves and at the end of dead-end streets. Lights shall be spaced approximately 300 feet apart. Light output shall be appropriate for the specific location in accordance with standards recommended in the current edition of the Illuminating Engineering Society, IES Lighting Handbook.

240-7.H SIDEWALKS

- 240-7.H(1) Sidewalks shall be concrete and shall have a minimum width of four feet. Sidewalk areas shall be landscaped and shall be properly illuminated with adequate lighting as per this section.
- 240-7.H(2) Sidewalks shall be provided on all residential developments as required by the New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-4.5, et seq. Applications for de minimis exceptions from the sidewalk requirements for residential developments shall be undertaken as provided for at N.J.A.C. 5:21-3.1, et seq. Sidewalks for residential developments shall be constructed pursuant to N.J.A.C. 5:21-4.18, et seq. and pursuant to the subpart (e) of this section below where same do not conflict with the requirements of the New Jersey Residential Site Improvement Standards.
- 240-7.H(3) For all other developments, sidewalks may be required where the Planning Board determines them necessary to provide pedestrian connections between residential areas and neighborhood schools, churches, commercial areas, other such facilities and probable future development. Where sidewalks are required to be installed by the Planning Board for other than residential developments pursuant to this subpart, construction shall be undertaken by the developer pursuant to subpart (e) of this section below.
- 240-7.H(4) Sidewalks shall be constructed true to the lines, grades and dimensions shown on the plans and Town details.
- 240-7.H(5) The site shall be cleared, stripped of top soil and vegetation and rough graded. Material in the subgrade shall be excavated and replaced by broken stone, gravel or other suitable material. The contractor shall fine grade the subgrade of the sidewalk area smooth and even and roll with a tandem roller weighing not less than 3 tons as directed by the Town Engineer. The sidewalk shall be brought to the prescribed line, grade and dimensions.
- 240-7.H(6) The concrete shall be Class "B" and shall meet "New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction" and amendments thereto with the following proportions to be used which must be approved by the Town Engineer.
- (a) Cement Sand Coarse Aggregate Class B 1.75 3.5 4000 p.s.i.
 - (b) Class B minimum 4,000 p.s.i. air entrained transit mix concrete must be used.
 - (c) The sand shall be properly graded, clean moderately sharp, and free from clay, loam, mica, organic or other foreign matter.
 - (d) The concrete shall be placed on damp base. If base is dry, it shall be lightly wetted down to avoid rapid moisture removal from the concrete.
 - (e) After the concrete is placed it shall be compacted by tamping or screeding to a true grade and surface, working up enough fines to allow a flat finish without addition of added mortar. The surface shall be floated, edged, and jointed. Just prior to final set, a hair broom shall be used to sweep concrete to a uniform broomed surface.
 - (f) Premolded bituminous expansion joint material shall be installed every twenty (20) feet and half depth contraction joints installed every four (4) feet.
 - (g) The sidewalk shall have a minimum thickness of 4". Driveway concrete walk and approach shall be 6" thick with 6" x 6" welded wire mesh with 2" cover from the bottom of the slab.
 - (h) Driveway approaches (if concrete) are to be laid with 1 1/2" lip at curb line. Monolithic curb approaches are prohibited.
- 240-7.H(7) Wood or metal forms shall be used for the construction of concrete sidewalks and braced at proper intervals as directed by the Town Engineer on each side of the sidewalk in order to maintain a true and straight edge on said walk. Damaged or corked forms shall not be used.

- 240-7.H(8) After the forms have been removed the earth shall be graded on each side of the sidewalk in a finished and workman-like manner and rolled as directed by the Town Engineer from the curb to the property line.
- 240-7.H(9) Where no curb grade, or curb or sidewalk lines have previously been established on an accepted Town street, road, etc., application must be made to the Town Engineer for the necessary information.
- 240-7.H(10) The unpaved area between the curb line and the adjacent edge of the sidewalk pavement shall be graded so that it has a uniform slope from the pavement edge toward the curb line of not less than one-quarter (1/4) inch, nor more than one-half (1/2) inch per foot, except by permission of the Town Engineer. There shall be 6 inches of screened top soil and seed between the curb and sidewalk and sidewalk and the property line.
- 240-7.H(11) All concrete shall be protected from dehydration by use of mats or suitable material. These mats shall be kept wet during the curing period or by use of approved curing compounds.
- 240-7.H(12) As the weather and freezing conditions from November 15 to March 15 are unpredictable, any construction of roads, sidewalks and driveway approaches during the above mentioned time shall be permitted only by approval of the Town Engineer. He shall permit such construction only if weather and/or soil conditions permit. Normally, permanent construction during this period of the year is not permitted, and all construction is subject to reinspection and replacement if required.

240-7.I TRAFFIC SIGNS AND CONTROL DEVICES

These improvements, such as "Stop," "Yield" and "One-Way" signs, etc., shall be designed and installed in accordance with applicable Federal, State, County and Municipal regulations. Recommendation as to their installation may be made by the Police Department or other competent agency and may have to be approved by ordinance.

240-7.J STREET TREES

- 240-7.J(1) Street trees shall be required on all Major Site Plan & Major Subdivision Applications.
- 240-7.J(2) Street trees shall have a dbh of at least three-and-one-half inches and be at least 12 feet in height when planted. When trees are planted at predetermined intervals along streets and park edges, spacing shall depend on expected tree size and species. Generally trees expected to reach a height of 40 or more feet shall be planted at intervals of 50 feet. Trees of an expected height of 30 feet to 40 feet shall be planted at intervals of 30 feet. Small trees less than 30 feet in height shall be planted at intervals of 25 feet. If a street canopy effect is desired by the Board, trees may be planted closer together following the recommendations of the Licensed Landscape Architect. All trees shall be planted so as not to interfere with utilities, roadways, sidewalks, site easements or streetlights. Tree location, landscaping design and spacing plan shall all be approved by the Board as part of the landscape plan.
- 240-7.J(3) When trees are planted, more than one species of street tree should be used. Planting a variety of tree species will guard against large areas of tree loss throughout the Town if a particular species is ever stricken with disease.

240-7.K STREET FURNITURE

The site plan shall provide for those elements of street furniture made of the same or similar materials to ensure design continuity and be appropriate to the particular use. They may include benches, bike racks, trash receptacles, bus shelters and landscaping planters. All trash receptacles shall be adequately secured, enclosed and screened on all sides by landscaping or other types of attractive materials.

240-7.L SIGHT TRIANGLE

- 240-7.L(1) Sight triangles shall be required at each quadrant of an intersection of streets in order to provide clear sight vision at intersections. The area within such sight triangles shall either be dedicated as part of the street right-of-way or maintained as part of the obligation of the ownership of the lot adjoining such street or streets, and which shall be set aside on a respective plat or plan as a sight triangle easement. On State and County roads, NJDOT or County standards will apply. RSIS applies to residential subdivisions on Town roads. Sight triangle easements are subject to approval by the Town Engineer.
- 240-7.L(2) Within a sight triangle easement, no grading, planting or structure shall be erected and maintained more than 30 inches above center line grade of either intersecting street or driveway or lower than eight feet above their center lines, including utility poles, but excluding street name signs and official traffic regulation signs. Where any street or driveway intersection involves earthen berms or vegetation, including trees, the developer shall trim such vegetation and trees as well as establish proper excavation and grading to provide the sight triangle.
- 240-7.L(3) The sight triangle shall be that area bounded by the intersecting street lines and a straight line which connects sight points located on the two intersecting street lines the following distances away from the intersecting street lines:
- (a) Arterial streets at 130 feet.
 - (b) Collector streets at 60 feet.
 - (c) Primary and secondary local streets at 35 feet.
- 240-7.L(4) Where the intersecting streets are both arterial, both collectors or one arterial and one collector, two overlapping sight triangles shall be required, formed by connecting the sight points noted above with a sight point 35 feet with respect to the intersecting street. Classification of existing and proposed streets shall be by those shown on the Master Plan, this Chapter or as designated by the Board at the time of the application for approval of a new street not included herein.
- 240-7.L(5) A sight triangle easement dedication shall be expressed on the plat or plan as follows:
- (a) Sight triangle easement subject to grading, plant and construction restrictions as provided pursuant to the Newton Land Subdivision and Site Plan. Portions of a lot set aside for a sight triangle shall be calculated in determining the lot area and shall be included in establishing the minimum setbacks.
 - (b) The property owner shall maintain the sight triangle. If the property owner does not maintain the sight triangle, the Town has the right but not the obligation to clear the sight triangle and assess the property owner for cost of clearing. .

240-7.M WALLS AND FENCES

- 240-7.M(1) Walls and fences may be utilized as elements of a landscaping plan in order to prevent trespassing, create privacy, provide screening or retain earth. Walls shall be designed to become an attractive special feature and may be constructed out of materials such as brick, stone, (rough cut, flagstone or ledge), fieldstones laid in a drywall or other appealing material or pattern.
- 240-7.M(2) Fences shall be wooden or simulated wood material and be of picket, basket-weave, lattice, split-rail, panel, woven or similar design or construction. Wooden fences may be left to weather naturally, stained and/or painted; provided, however, that painted fencing shall be repainted as necessary. Woven wire is discouraged except in necessary and appropriate circumstances. If a woven wire fence must be used, it shall be of black color and its visibility obscured to a significant extent by plantings or vines, if practicable. Plastic slats or other inserts in chain link fences are prohibited.
- 240-7.M(3) In all cases, walls and fences must complement the character of the site and the architectural design of the buildings. All fences and walls shall be suited to the nature of the project.

240-7.M(4) See subsection 240-7.B(7) for other fence and wall standards including maximum height.

Section 240-8. Off-Street Parking/Loading

Subsections:

- 240-8.A General Design Standards
- 240-8.B Sidewalks in Parking Areas
- 240-8.C Landscaping
- 240-8.D Paving Materials
- 240-8.E Location of Parking
- 240-8.F Off-Street Loading

240-8.A GENERAL DESIGN STANDARDS

- 240-8.A(1) Where applicable, the Residential Site Improvement Standards, as amended from time to time, shall apply. Parking and loading designs are subject to review and approval by the Town Engineer.
- 240-8.A(2) Off-street parking and loading areas shall be coordinated with the public street system serving the area in order to avoid conflicts with through traffic, obstruction to pedestrian walkways and vehicular thoroughfares. Shared parking among mixed uses shall be encouraged.
- 240-8.A(3) A minimum of 15% of any surface parking facility containing more than 10 spaces shall be landscaped and shall include one shade tree for every 10 parking spaces. Shade trees shall be a minimum 3 1/2 inches in caliper and an installed height of 12 feet.
- 240-8.A(4) All parking and loading areas abutting mixed-use/residential areas shall be buffered about their periphery with landscaping and/or fencing.
- 240-8.A(5) All parking and loading areas for nonresidential uses shall be graded and paved and shall be adequately drained.
- 240-8.A(6) Dimension of parking spaces. Every such space provided shall measure at least nine feet in width and 18 feet in length, exclusive of access drives and aisles. Hairpin striping shall be required. End-to-end parking spaces shall measure not less than eight feet in width by 23 feet in length. Twenty percent of required parking spaces may be compact spaces measuring 8.5 feet in width by 15 feet in depth.
- 240-8.A(7) Width of aisles. The width of all aisles providing direct access to individual parking spaces shall be in accordance with the requirements set forth below. Only one-way traffic shall be permitted in aisles serving parking spaces placed at an angle other than 90°. Parking aisles widths must meet NFPA fire code standards and are subject to review and approval by the Town Fire Code Official.

Parking Angle (degrees)	Aisle Width (feet)
0 (end-to-end parking)	12
30	12
45	13
60	18
90 (perpendicular parking)	24

- 240-8.A(8) There shall be adequate provisions for safe and convenient ingress and egress to all parking areas.
- 240-8.A(9) Every parking area shall have direct access to a street or alley and shall conform with the following:
- (a) Driveways shall have a minimum width of 12 feet for one-way traffic and 30 feet for two-way traffic.

240-8.A(10) Maximum grade of nonresidential parking areas:

Areas	Maximum Grade (percent)
Parking spaces and service aisles	4%
Main approach walkways to buildings	4%
Collector or other service walkways	6%
Swales	5%
Driveway entrances and exits up to 25 feet from right-of-way line	2%
Driveway entrances and exits beyond 25 feet from right-of-way line	10%

240-8.A(11) All off-street parking areas shall be used solely for the parking of passenger automobiles, and no commercial repair work, service or storage of new or used motor vehicles, materials or merchandise of any kind shall be conducted on such parking area

240-8.B SIDEWALKS IN PARKING AREAS

Sidewalks shall be required between parking areas and principal structures, along aisles and driveways and wherever pedestrian traffic occurs. They shall have a minimum of four feet of passable width and shall be raised a maximum of six inches above the parking area except when crossing streets or driveways. Guiderails shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas unless an additional sidewalk width of two feet is provided to accommodate such overhang.

240-8.C LANDSCAPING

240-8.C(1) Amount required. In parking lots containing more than 10 spaces, at least 15% of the interior parking area shall be landscaped with plantings. Parking lot street frontage screening and perimeter screening shall be a minimum of 10 feet wide. Planting required within the parking lot shall be exclusive of other planting requirements. Planting islands and landscaping areas within a parking areas shall, to the greatest practicable extent, be randomly located so as to lend visual interest and avoid a sense of parking area expanse. The Board may require additional parking space or snow disposal areas or easements to insure that this section is adequately reconciled with effective parking requirements following significant snow events.

240-8.C(2) Isolated locations. Landscaping shall be located in protected or isolated areas such as along walkways, in center islands at the end of bays or between parking stalls. All landscaping in parking areas and on street frontage shall be placed so that it will not obstruct sight distance.

240-8.C(3) Plant type. A mixture of hardy flowering and/or decorative evergreen and deciduous trees shall be planted; the area between trees shall be planted with shrubs or ground cover or covered with mulch.

240-8.C(4) All open parking areas containing six or more parking spaces shall be effectively screened by densely planted compact evergreen hedge not less than six feet high with respect to all sites where such parking adjoins any property situated in a residential district and where otherwise needed to insure privacy for residential properties. Parking areas shall be arranged and designed so as to prevent damage to or intrusion into

existing vegetated areas. Planting areas shall be incorporated between rows of stalls and trees; flowers and shrubbery shall be grown therein and properly maintained.

240-8.C(5) Off-street parking shall be generally screened from public view and from adjacent properties in all nonresidential zones. A combination of earth berms and evergreen and deciduous plantings is acceptable under appropriate circumstances. The use of planting islands within the parking lot to relieve visual monotony of a paving surface and to channel traffic flow shall be required.

240-8.C(6) A minimum of one shade tree shall be provided per 10 parking stalls or one shade tree per 3,000 square feet of parking lot area, whichever is greater, and shall be distributed evenly throughout the parking area. Such trees shall have a minimum of 3 1/2 inches to 4 inches in dbh and an installed height of 12 feet to 14 feet. Wherever possible, at the intersection of four ninety-degree parking stalls or in other unused areas not affecting parking stall utility, maneuverability or adequate door-swing, a shade tree shall be installed and protected by curbing, planter structure or other suitable means to avoid possible damage by vehicles. Such protective device structures shall not interfere with vehicles entering or exiting a parking stall or aisle.

240-8.D PAVING MATERIALS

Paving for off-street pedestrian ways may be of man-made or natural material, such as stone or stone combination thereof. Surface paving must produce a firm and level surface to facilitate passage, snow removal and stabilize the surface. Surface paving must be naturally decorative and provide visual interest and be of suitable material, texture and color. Asphalt paving of pedestrian ways is prohibited. Cobblestones, stone block and pavers made of slate, concrete or natural stone are preferred. Concrete walkways are acceptable. An appealing combination of materials is also acceptable. Clay brick should be avoided for its propensity to become slippery under freezing conditions. Curbing shall be constructed of concrete or granite block.

240-8.E LOCATION OF PARKING

240-8.E(1) Required off-street parking shall be located only in those locations as set forth below and shall meet all setback requirements set forth in this Subsection.

240-8.E(2) In all residential zones or for any residence, not more than one of the required off-street spaces for each dwelling unit may be on the driveway in the front yard.

240-8.E(3) Off-street parking facilities as accessory to any use permitted in a residential zone shall be provided on the same lot with the permitted principal building.

240-8.E(4) Access to or egress from any property situated in a nonresidential zone through the use of a driveway located on property in a residential zone is prohibited.

240-8.E(5) Bicycle racks. Bicycle racks shall be encouraged for all multifamily and nonresidential developments at the ratio of one bicycle space for each dwelling unit or one bicycle space for each 20 off-street parking spaces or fraction thereof over 20 spaces.

240-8.F OFF-STREET LOADING

240-8.F(1) Application. In any building or building group or part thereof hereafter erected and having a gross floor area of 5,000 square feet or more of nonresidential space, there shall be provided and maintained on the same zone lot with such building a designated off-street loading zone.

240-8.F(2) Location of loading areas. All loading areas shall be on the same lot as the use which is to be served. Such areas shall be located only in a side or rear yard. Such areas shall not encroach upon any required open space, accessway, off-street parking area or public right-of-way. Where located adjacent to any residential district, they shall be set back a minimum of five feet from such property line.

240-8.F(3) Access. All required off-street loading areas shall provide sufficient turning areas and access.

240-8.F(4) Calculation of required loading areas. The number of off-street loading berths required for any use shall be determined by application of the standards set forth below:

Floor Area in Square Feet	Number of Spaces
5,000 to 9,999	1
10,000 to 19,999	2
20,000 to 49,999	3
50,000 to 100,000	4
Each additional 100,000 or part thereof	1

240-8.F(5) Each loading space shall be at least twelve (12) feet in width, thirty (30) feet in length and have a fourteen (14) foot clearance above grade, provided, however, that the Planning Board may require additional length of up to fifty-five (55) feet depending on the length of vehicles using said space.

Section 240-9. Signs

Subsections:

240-9.A General Sign Provisions

240-9.A GENERAL SIGN PROVISIONS

- 240-9.A(1) Permits for signs. Except for signs as permitted in Subsection 11 below or for which a special permit is required pursuant to Chapter 320, no sign shall be constructed or displayed unless a permit shall have first been obtained from the Building Inspector. If there is any question as to the suitability of any sign or as to its meeting the requirements of this Chapter, either the Building Inspector or the Zoning Officer may refer the application for said sign to the Planning Board, which shall submit a report of its findings to the Building Inspector or the Zoning Officer, as the case may be, immediately after its first regular meeting following receipt of the sign application.
- 240-9.A(2) Temporary safety, traffic, directional and warning signs shall be permitted as provided in Chapter 320.
- 240-9.A(3) Moving, flashing, blinking or rotating signs or lights, as well as streamers, pennants and similar displays, are prohibited in all zones. Without limitation of the generality of the foregoing, this prohibition includes balloons, other inflatable objects, searchlights, and flexible signs in which movement is produced through operation of a fan or similar device.
- 240-9.A(5) Signs required by law and necessary to the public welfare shall be permitted as provided in Chapter 320.
- 240-9.A(5) No sign shall be placed as to interfere with or be mistaken for a traffic light or similar safety device or interfere with traffic visibility.
- 240-9.A(6) All illuminated signs shall be either indirectly lighted or of the diffused lighting type. No sign shall be lighted by means of flashing or intermittent illumination.
- 240-9.A(7) No sign as permitted shall extend or project above the highest elevation of the wall to which it is attached, nor shall any sign be erected on or attached to the roof of a building.
- 240-9.A(8) Any sign that uses the word "stop" or "danger" or otherwise presents or implies the need or requirement of stopping or caution or the existence of danger or which is likely to be confused with any sign displayed by public authority is prohibited.
- 240-9.A(9) No banner or portable signs shall be permitted except as provided in Chapter 320.
- 240-9.A(10) The following exemptions shall apply only to the requirement for a sign permit and shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance in good and safe conditions:
- (a) Memorial tablets or signs, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials.
 - (b) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs and such temporary emergency signs as may be erected by governmental or public utility employees in carrying out their official work.
 - (c) Names on mail boxes.
 - (d) Signs used on property warning the public against hunting or trespassing thereon.
- 240-9.A(11) No advertising sign shall be erected or located on, within or over any public right-of-way; excepting district identification signs for a business district or parking directional signs over access roads to parking.
- 240-9.A(12) No sign or advertising structure shall be erected which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises.

- 240-9.A(13) There shall be permitted one wall or ground identification sign, not exceeding 24 square feet, located on the premises of houses of worship, Sunday school buildings, public libraries, hospitals, museums, art galleries, parish houses, buildings used exclusively by Federal, State, County and local government for public purposes, public, private and parochial schools, public recreational and community center buildings and grounds. No such sign shall be located closer than 15 feet to a property line or street right-of-way line.
- 240-9.A(14) Wall or ground traffic directional and traffic safety signs containing such wording as "one-way," "do not enter," "stop," "enter" and "exit" may be located on a property in any zone, provided the locations and sizes of such signs are approved by the Board.
- 240-9.A(15) Customary warning or "No Trespassing" signs not more than one square foot in area may be displayed in any zone as well as not more than four signs advertising the sale and price of seasonal farm produce, provided the total area of such signs does not exceed 24 square feet.
- 240-9.A(16) Temporary signs advertising a prospective sale or rental shall be permitted as provided in Chapter 320.
- 240-9.A(17) Non-illuminated temporary signs on construction sites shall be permitted as provided in Chapter 320.
- 240-9.A(18) One (1) non-illuminated temporary sign on new construction sites, not exceeding 25 square feet in area and provided they shall be maintained and removed within seven days after receipt of a Certificate of Occupancy are permitted in any zone.
- 240-9.A(19) Temporary signs for events such as elections, trick trays, yard sales, etc. shall be permitted as provided in Chapter 320.

Section 240-10. Wellhead Protection

Subsections:

- 240-10.A Statement of Findings
- 240-10.B Purpose
- 240-10.C Statutory Authority
- 240-10.D Establishment of Well Head Protection Areas and Maps
- 240-10.E Regulation of Well Head Protection Areas for Public Wells
- 240-10.F Potential Pollutant Sources Listed
- 240-10.G Best Management Practice Performance Standards
- 240-11.H Operations and Contingency Plan
- 240-10.I Enforcement
- 240-10.J Non-conforming Regulated Activities
- 240-10.K Severability

240-10.A STATEMENT OF FINDINGS

The Town of Newton finds that:

- 240-10.A(1) The ground water underlying this Municipality is a major source of existing and future water supplies, including drinking water. The ground water underlying this Municipality lies within the Northwest New Jersey Aquifer system, which is designated as a "sole source" aquifer under Section 1424(e) of the Federal Safe Drinking Water Act of 1974.
- 240-10.A(2) The ground water aquifers are integrally connected with, are recharged by, and flow into the surface waters, lakes and streams, which also constitute a major source of water for drinking, commercial and industrial needs.
- 240-10.A(3) Spills and discharges of toxic or hazardous materials may contaminate or pollute ground water supplies and related water sources.
- 240-10.A(4) Contaminated water from any source is a detriment to the health, welfare and comfort of the residents of this Municipality, and other users of these water resources.

240-10.B PURPOSE

The purpose of this Ordinance is to protect the public health, safety and welfare through the protection of the ground water resources underlying the Municipality to ensure a supply of safe and healthful drinking water for the present and future generations of local residents, employees and the general public in this Municipality, as well as users of these water supplies outside this Municipality. Areas of land surrounding each public community well and nontransient noncommunity well, known as Well Head Protection Areas, from which contaminants may move through the ground to be withdrawn in water taken from the well, have been delineated. Through regulation of land use, physical facilities, placement of toxic and hazardous materials, and other related activities within these areas, the potential for ground water contamination can be reduced and any such contamination can be more readily found and remediated before reaching a public well. The purpose of the regulations contained in this Ordinance is to protect public community wells and public nontransient noncommunity wells from contamination.

240-10.C STATUTORY AUTHORITY

The Town of Newton is empowered to regulate these activities under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A 40:55D-1 *et seq.*, which authorizes each municipality to plan and regulate land use to secure a safe and adequate drinking water supply for its residents. Under provisions of the Underground Storage of Hazardous Substances Act, N.J.S.A. 13:1D *et seq.*, a municipality may adopt, with State approval, a municipal ordinance that is more stringent than N.J.A.C. 7:14B but is

obligated to ensure the provisions of the Ordinance are not carried out in a manner that is inconsistent with N.J.A.C. 7:14B. The Board of Health of this Municipality has autonomous power granted by the State Legislature to develop this Ordinance to protect public health, safety and welfare, as set forth in the New Jersey Local Boards of Health Law, N.J.S.A. 26:3-1 *et seq.*, and the New Jersey County Environmental Health Act, N.J.S.A. 26:3A2-21 *et seq.*

240-10.D ESTABLISHMENT OF WELL HEAD PROTECTION AREAS AND MAPS

240-10.D(1) Well Head Protection Area Maps:

- (a) The delineations of Well Head Protection Area maps for public community wells and public nontransient noncommunity wells, which were published by the New Jersey Geological Survey of the New Jersey Department of Environmental Protection, are incorporated herein and made a part of this Ordinance. The Department of Environmental Protection will periodically update the Well Head Protection Area maps and these maps, published by the New Jersey Geological Survey, will be available at the web-site: www.state.nj.us/dep/njgs/geodata/. The most recent Well Head Protection Area maps available through the New Jersey Geological Survey should replace the maps used for reference in this Ordinance. A map of the Well Head Protection Areas located within the Town of Newton is included as part of this Ordinance, is appended as Schedule D. Maps of the municipality on which these delineations have been overlain shall be on file and maintained by the Office of the Clerk of the Town of Newton, and the Construction Office of the Town of Newton.
- (b) Well Head Protection Areas, as shown on the maps described in Section V.A(1), or as periodically updated and delineated by the Department of Environmental Protection and published by the New Jersey Geological Survey shall be considered to be superimposed over any other established zoning district. Land in a Well Head Protection Area may be used for any purpose permitted in the underlying district, subject to the additional restrictions presented herein.

240-10.D(2) Assignment of Restrictions within Well Head Protection Areas:

- (a) Properties located wholly or partially within a Well Head Protection Area shall be governed by the restrictions applicable to the more restrictive Well Head Protection Area Tier, if partially within one or more Tiers.

240-10.E REGULATION OF WELL HEAD PROTECTION AREAS FOR PUBLIC WELLS

240-10.E(1) The Administrative Authority for administering the provisions of this Ordinance shall be the Planning Board and the Board of Health of the Town of Newton acting jointly and in consultation.

240-10.E(2) Any applicant for a permit requesting a change in land use or activity which is subject to review under the provisions of the Municipal Land Use Law and other pertinent regulations of the Town of Newton and which is located within a delineated Well Head Protection Area as defined in Subsection 240-10.D, and involves a Potential Pollutant Source as defined in Subsection 240-10.F, shall comply with the requirements of this Ordinance.

240-10.E(3) Any applicant for a permit requesting a change in land use or activity, which is subject to the requirements of this Ordinance, shall file an Operations and Contingency Plan, as required by Subsection 240-10.H, with the Administrative Authority. No permit that allows a change in land use or activity, which is subject to the requirements of this Ordinance, shall be granted unless an Operations and Contingency Plan for the proposed change has been approved by the Administrative Authority. Any plan approved by the Administrative Authority shall be kept on file in the office of the Town Clerk of the Town of Newton, and shall be available to the public for inspection.

- 240-10.E(4) Any change in land use or activity that introduces a Major or Minor Potential Pollutant Source (PPS), as defined in Subsection 240-10.F, shall be prohibited within a Tier 1 Well Head Protection Area.
- 240-10.E(5) Any change in land use or activity that introduces a Major PPS, as defined in Subsection 240-10.F, shall be prohibited within a Tier 2 Well Head Protection Area.
- 240-10.E(6) Any change in land use or activity that involves any Major or Minor PPS, as defined in Subsection 240-10.F, within any Well Head Protection Area, that is not prohibited pursuant to Subsection 240-10.E(4) or 240-10.E(5), shall comply with the Best Management Practice Standards, as defined in Subsection 240-10.G.
- 240-10.E(7) This Ordinance is supplementary to other laws and ordinances in this Municipality. Where this Ordinance or any portion thereof imposes a greater restriction than is imposed by other regulations, the provisions of this Ordinance shall supersede. These Rules and Regulations shall in no way affect the limitations or requirements applicable in the underlying municipal land use and zoning districts.
- 240-10.E(8) The use limitations noted herein shall be considered as limitations stipulated in the permitted list of uses in each zone. The activities regulated herein shall be considered limitations accessory to permitted uses in each zone.

240-10.F POTENTIAL POLLUTANT SOURCES LISTED

The following are Major and Minor Potential Pollutant Sources subject to the requirements of this Ordinance. These listings are consistent with the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-11.4(a)4).

- 240-10.F(1) Major Potential Pollutant Sources include the types of facilities and land uses listed in Schedule B.
- 240-10.F(2) Minor Potential Pollutant Sources include the types of facilities and land uses listed in Schedule C.
- 240-10.F(3) The Administrative Authority of the Town of Newton may determine whether any other proposed change in land use or activity is of sufficient risk to the water supply to be considered a Major or Minor Potential Pollutant Source.

240-10.G BEST MANAGEMENT PRACTICE PERFORMANCE STANDARDS

- 240-10.G(1) Any applicant proposing any change in land use or activity that involves any Major or Minor PPS, as defined in Subsection 240-10.F, which would be located either wholly or partially within any Well Head Protection Area shall demonstrate that they have applied for all required State permits or control documents. No final approvals under the authority of the Municipal Land Use Law shall be issued until all required State permits or control documents are issued final. Underground storage tanks regulated at N.J.A.C. 7:14B shall also be operated in a manner consistent with N.J.A.C. 7:14B.
- 240-10.G(2) Any new or modified activity that involves a Major or Minor PPS located wholly or partially within any Well Head Protection Area shall comply with and operate in a manner consistent with the following Best Management Practices:
- (a) All portions or areas of a facility in which hazardous substances or hazardous wastes are stored, processed, manufactured or transferred outdoors, shall be designed so that the discharges of hazardous substances will be prevented from overflowing, draining, or leaching into the ground water or surface waters.
 - (b) Outdoor storage, dispensing, loading, manufacturing or processing areas of hazardous substances or hazardous wastes must be protected from precipitation, stormwater flows or flooding.
 - (c) Wherever hazardous substances are stored, processed, manufactured or transferred outdoors, the design features shall include secondary containment and/or diversionary structures which may include but not be limited to:
 - [1] Containers, dikes, berms or retaining walls sufficiently impermeable to contain spilled hazardous substances for the duration of a spill event.
 - [2] Curbing.

- [3] Gutter, culverts and other drainage systems.
 - [4] Weirs, booms and other barriers.
 - [5] Lined diversion ponds, lined lagoons and lined retention basins, holding tanks, sumps, slop tanks and other collecting systems.
 - [6] Drip pans.
- (d) Secondary containment and/or diversionary systems, structures or equipment must meet the following standards:
- [1] The system must block all routes by which spilled hazardous substances could be expected to flow, migrate, or escape into the ground water or surface waters.
 - [2] The system must have sufficient capacity to contain or divert the largest probable single discharge that could occur within the containment area, plus an additional capacity to compensate for any anticipated normal accumulation of rainwater.
 - [3] In order to prevent the discharge of hazardous substances into ground water, all components of the system shall be made of or lined with impermeable materials sufficient to contain the substance for the duration of a spill event. Such material or liner must be maintained in an impermeable condition.
 - [4] No manufacturing area, processing area, transfer area, dike storage area or other storage area, or secondary containment/diversion system appurtenant thereto shall drain into a watercourse or into a ditch, sewer, pipe or storm drain that leads directly or indirectly into a surface or subsurface disposal area, unless provision has been made to intercept and treat any spilled hazardous substances in an NJDEP approved industrial wastewater treatment or pre-treatment facility, or other NJDEP approved facility.
 - [5] Catchment basins, lagoons and other containment areas that may contain hazardous substances should not be located in a manner that would subject them to flooding by natural waterways.
- (e) Stormwater shall be managed so as to prevent contamination of ground water and so as to be in accordance with applicable laws and regulations of the State of New Jersey and of the Town of Newton.

240-10.H OPERATIONS AND CONTINGENCY PLAN

- 240-10.H(1) An applicant proposing a change in land use or activity that involves a PPS, as defined in Subsection 240-10.F, that would be located either wholly or partially within any Well Head Protection Area shall submit an Operations and Contingency Plan to the Administrative Authority. This Operations and Contingency Plan shall inform the Administrative Authority about the following aspects of the proposal:
- (a) Types of PPS proposed for the site;
 - (b) Types and quantities of hazardous substances or hazardous wastes that may be used or stored on site;
 - (c) Means to be employed to contain or restrict the spillage or migration of hazardous substances or hazardous wastes from the site into ground water;
 - (d) Means to be used to remediate accidental spillage of such materials;
 - (e) Means to notify Administrative Authority about any accidental spillage of such materials;
 - (f) Demonstration that the proposed use and/or activity would employ, to the maximum extent possible, Best Management Practices as set forth in Subsection VIII to protect ground water quality in the Well Head Protection Area and minimize the risk of potential ground water contamination.

- 240-10.H(2) The Administrative Authority shall review and approve any Operations and Contingency Plan prior to final approval of the application for a land use change or activity.
- 240-10.H(3) Any Operations and Contingency Plan submitted shall be available for public review and comment.

240-10.I ENFORCEMENT

A prompt investigation shall be made by the appropriate personnel of the Construction or Engineering Office of the Town of Newton of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action may be instituted in the Special Civil Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude a municipality's right, pursuant to N.J.S.A 26:3A-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or Subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or Subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

240-10.J NON-CONFORMING REGULATED ACTIVITIES

- 240-10.J(1) An otherwise lawful usage or activity which exists at the time of the effective date of this Ordinance that does not conform to this Ordinance shall be considered an allowed non-conforming activity and may continue.
- 240-10.J(2) No allowed non-conforming activity shall be expanded, enlarged or modified in any way which is deemed by the Zoning Officer to increase its threat to groundwater or otherwise contravene the purposes and intent of this Ordinance.
- 240-10.J(3) In the event that an allowed non-conforming activity is stopped, suspended or abandoned for a period of twelve (12) months or longer, the activity shall permanently desist and shall be subject to the requirements of this Ordinance.
- 240-10J(4) Notwithstanding the foregoing, if any allowed non-conforming activity is found to pose an imminent health hazard or threat to the municipality's water supply, it shall be deemed a violation of this Ordinance.

240-10.K SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holdings shall in no way affect the validity of the remaining portions of this Ordinance.

Section 240-11. Steep Slopes

Subsections:

- 240-11.A Purpose
- 240-11.B Background
- 240-11.C Applicability
- 240-11.D Designation of Areas
- 240-11.E Steep Slopes Limits
- 240-11.F Conflicts and Severability
- 240-11.G Enforcement and Violations

240-11.A PURPOSE

The purpose of this Ordinance is to regulate the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land.

240-11.B BACKGROUND

Disturbance of steep slopes results in accelerated erosion processes from stormwater runoff and the subsequent sedimentation of waterbodies with the associated degradation of water quality and loss of aquatic life support. Related effects include soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. It has become widely recognized that disturbance of steep slopes should be restricted or prevented based on the impact disturbance of steep slopes can have on water quality and quantity, and the environmental integrity of landscapes.

240-11.C APPLICABILITY

This Ordinance shall be applicable to new development or land disturbance on a steep slope within The Town of Newton.

240-11.D DESIGNATION OF AREAS

The percent of slope (rise in feet per horizontal distance) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a 10-foot horizontal run constitutes a 10 percent slope; a 1.5 foot rise over a 10-foot horizontal run constitutes a 15 percent slope; a two-foot rise over a 10-foot horizontal run constitutes a 20 percent slope.

240-11.E STEEP SLOPES LIMITS

- 240-11.E(1) For steep slopes any disturbance shall be prohibited except as provided below:
- (a) Redevelopment within the limits of existing impervious surfaces; and
 - (b) New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover should be allowed to support efforts to revitalize development that has fallen into disrepair.

240-11.E(2) The applicant shall demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a 20 percent or greater slope.

240-11.F CONFLICTS AND SEVERABILITY

240-11.F(1) Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this Ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance apply.

240-11.F(2) Severability:

- (a) Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
- (b) Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
- (c) The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

240-11.G ENFORCEMENT AND VIOLATIONS

240-11.G(1) A prompt investigation shall be made by the appropriate personnel of the Town of Newton, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action may be instituted in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the Town of Newton, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or Subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or Subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

Section 240-12. Riparian Zones

Subsections:

- 240-12.A Intent and Purpose
- 240-12.B Statutory Authority
- 240-12.C Establishment of Riparian Zones
- 240-12.D Uses Permitted in Riparian Zones
- 240-12.E Performance Standards for Riparian Zones
- 240-12.F Non-conforming Structures and Uses in Riparian Zones
- 240-12.G Uses Prohibited in Riparian Zones
- 240-12.H Activities Permitted in Riparian Zones in the Case of No Reasonable or Prudent Alternative or Extreme Hardship
- 240-12.I Riparian Zone Management Plan
- 240-12.J Boundary Interpretation, Appeals Procedures, Inspections, Conflicts, Severability
- 240-12.K Enforcement

240-12.A INTENT AND PURPOSE

240-12.A(1) The governing body of the Town of Newton finds that riparian lands adjacent to streams, lakes, or other surface water bodies that are adequately vegetated provide an important environmental protection and water resource management benefit. It is necessary to protect and maintain the beneficial character of riparian areas by implementing specifications for the establishment, protection, and maintenance of vegetation along the surface water bodies within the jurisdiction of the Town of Newton, consistent with the interest of landowners in making reasonable economic use of parcels of land that include such designated areas. The purpose of this Ordinance is to designate riparian zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the Town of Newton; to protect the water quality of watercourses, reservoirs, lakes, and other significant water resources within the Town of Newton; to protect the riparian and aquatic ecosystems of the Town of Newton to provide for the environmentally sound use of the land resources of the Town of Newton, and to complement existing State, Regional, County, and Municipal stream corridor protection and management regulations and initiatives.

240-12.A(2) The specific purpose and intent of this Ordinance are to:

- (a) Restore and maintain the chemical, physical, and biological integrity of the water resources of the Town of Newton.
- (b) Prevent excessive nutrients, sediment, and organic matter, as well as biocides and other pollutants, from reaching surface waters by optimizing opportunities for filtration, deposition, absorption, adsorption, plant uptake, biodegradation, and denitrification, which occur when stormwater runoff is conveyed through vegetated buffers as stable, distributed flow prior to reaching receiving waters.
- (c) Provide for shading of the aquatic environment so as to moderate temperatures, retain more dissolved oxygen, and support a healthy assemblage of aquatic flora and fauna.
- (d) Provide for the availability of natural organic matter (leaves and twigs) and large woody debris (trees and limbs) that provide food and habitat for aquatic organisms (insects, amphibians, crustaceans, and small fish), which are essential to maintain the food chain.
- (e) Increase stream bank stability and maintain natural fluvial geomorphology of the stream system, thereby reducing stream bank erosion and sedimentation and protecting habitat for aquatic organisms.
- (f) Maintain base flows in streams and moisture in wetlands.
- (g) Control downstream flooding.

- (h) Conserve the natural features important to land and water resources, e.g., headwater areas, ground water recharge zones, floodways, floodplains, springs, streams, wetlands, woodlands, and prime wildlife habitats.

240-12.B STATUTORY AUTHORITY

240-12.B(1) The Municipality of the Town of Newton is empowered to regulate land uses under the provisions of the New Jersey Municipal Land Use Law, N.J.S.A 40:55D-1 et seq., which authorizes each municipality to plan and regulate land use in order to protect public health, safety and welfare by protecting and maintaining native vegetation in riparian areas. The Town of Newton is also empowered to adopt and implement this Ordinance under provisions provided by the following legislative authorities of the State of New Jersey:

- (a) Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- (b) Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.
- (c) Spill Compensation and Control Act, N.J.S.A. 58:10-23 et seq.
- (d) Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.
- (e) Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.

240-12.C ESTABLISHMENT OF RIPARIAN ZONES

240-12.C(1) Riparian zones adjacent to all surface water bodies shall be protected from avoidable disturbance and shall be delineated as follows:

- (a) The riparian zone shall be 300 feet wide along both sides of any Category One water (C1 water), and all upstream tributaries situated within the same HUC 14 watershed. This includes Special Water Resource Protection Area's or SWRPA's as defined herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage, pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h).
- (b) The riparian zone shall be 150 feet wide along both sides of the following waters not designated as C1 waters:
 - [1] Any trout production water and all upstream waters (including tributaries).
 - [2] Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the surface water body.
 - [3] Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the surface water body for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the surface water body.
 - [4] Any segment of a surface water body flowing through an area that contains acid producing soils.
- (c) For all other surface water bodies, a riparian zone of 50 feet wide shall be maintained along both sides of the water.

240-12.C(2) The portion of the riparian zone that lies outside of a surface water body is measured landward from the top of bank. If a discernible bank is not present along a surface water body, the portion of the riparian zone outside the surface water body is measured landward as follows:

- (a) Along a linear fluvial or tidal water, such as a stream or swale, the riparian zone is measured landward of the feature's centerline.
- (b) Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit.
- (c) Along a non-linear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water line.

- (d) Along an amorphously-shaped feature such as a wetland complex, through which water flows but which lacks a definable channel, the riparian zone is measured landward of the feature's centerline.
- (e) Where slopes in excess of 15 percent are located within the designated widths, the riparian zone shall be extended to include the entire distance of this sloped area to a maximum of 300 feet.
- (f) For areas adjacent to surface water bodies for which the floodway has been delineated per the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3 or the State's adopted floodway delineations, the riparian zone shall cover the entire floodway area, or the area described in Subsection 240-12.C(1)(a) or 240-12.C(1)(b) above, whichever area has the greatest extent. Requests for alterations to the adopted delineations can be provided to the New Jersey Department of Environmental Protection for consideration if site specific information is available.

240-12.C(3) A riparian zone is an overlay to the existing zoning districts. The provisions of the underlying district shall remain in full force except where the provisions of the riparian zone differ from the provisions of the underlying district, in which case the provision that is more restrictive shall apply. These provisions apply to land disturbances resulting from or related to any activity or use requiring application for any of the following permits or approvals:

- (a) Building permit
- (b) Zoning variance
- (c) Special exception
- (d) Conditional use
- (e) Subdivision/land development approval

240-12.C(4) A map of the riparian zones of the entire Town of Newton, including all land and water areas within its boundaries, which designates surface water bodies, is included as part of this Ordinance, and is appended in Schedule E. Maps of the Municipality on which these designations have been overlain shall be on file and maintained by the offices of the Town Clerk. This map conforms to all applicable laws, rules and regulations applicable to the creation, modification and promulgation of zoning maps.

240-12.C(5) It shall be the duty of the Town Engineer, every second year after the adoption of this Ordinance, to propose modifications to the map delineating riparian zones required by any naturally occurring or permitted change in the location of a defining feature of a surface water body occurring after the initial adoption of the riparian zone map, to record all modifications to the riparian zone map required by decisions or appeals under Subsection 240-12.J, and by changes made by the New Jersey Department of Environmental Protection in surface water classifications or floodway delineations.

240-12.C(6) The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area on any plan submitted to the Town of Newton in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the Town Engineer, governing body, or its appointed representative, and, where required, by the New Jersey Department of Environmental Protection.

240-12.C(7) Exemptions. To obtain exemptions from the riparian zone protection requirements above, the applicant must demonstrate compliance with one of the following:

- (a) The proposed disturbance in a riparian zone is for a linear development with no feasible alternative route. If the riparian zone is associated with Category One waters, the linear development must also meet the requirements for Special Water Resource Protection Areas under the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h).

- (b) The proposed disturbance in a riparian zone is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the New Jersey Department of Environmental Protection.
- (c) The proposed disturbance of a riparian zone is necessary to provide for public pedestrian access or water dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A, the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, or the Coastal Zone Management Rules, N.J.A.C. 7:7E.
- (d) The proposed disturbance of a riparian zone is required for the remediation of hazardous substances performed with New Jersey Department of Environmental Protection or Federal oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:1023.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§9601 et seq..
- (e) The proposed disturbance is for redevelopment that does not exceed the limits of existing impervious surfaces.
- (f) The proposed disturbance would prevent extraordinary hardship on the property owner peculiar to the property; or prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.
- (g) Demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a 20 percent or greater slope, except as allowed under f and g above.

240-12.D USES PERMITTED IN RIPARIAN ZONES

240-12.D(1) For riparian zones in Category One waters (C1 waters), permitted uses are governed by the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, unless otherwise exempt.

240-12.D(2) Any other riparian zone area shall remain in a natural condition or, if in a disturbed condition, including agricultural activities, at the time of adoption of this Ordinance may be restored to a natural condition. There shall be no clearing or cutting of trees and brush, except for removal of dead vegetation and pruning for reasons of public safety or for the replacement of invasive species with indigenous species. There shall be no altering of watercourses, dumping of trash, soil, dirt, fill, vegetative or other debris, regrading or construction. The following uses are permitted either by right or after review and approval by the Municipality in riparian zones. No new construction, development, use, activity, encroachment, or structure shall take place in a riparian zone, except as specifically authorized in this Section. The following uses shall be permitted within a riparian zone:

- (a) Open space uses that are primarily passive in character shall be permitted by right to extend into a riparian zone, provided near stream vegetation is preserved. These uses do not require approval by the Zoning Enforcement Officer or compliance with an approved Riparian Zone Management Plan. Such uses include wildlife sanctuaries, nature preserves, forest preserves, fishing areas, game farms, fish hatcheries and fishing reserves, operated for the protection and propagation of wildlife, but excluding structures. Such uses also include passive recreation areas of public and private parklands, including unpaved hiking, bicycle and bridle trails, provided that said trail have been stabilized with pervious materials.
- (b) Fences, for which a permit has been issued by the Construction Code Office, to the extent required by applicable law, rule or regulation.

- (c) Crossings by farm vehicles and livestock, recreational trails, roads, railroads, storm water lines, sanitary sewer lines, water lines and public utility transmission lines, provided that the land disturbance is the minimum required to accomplish the permitted use, subject to approval by the Zoning Enforcement Officer, provided that any applicable State permits are acquired, and provided that any disturbance is offset by buffer improvements in compliance with an approved Riparian Zone Management Plan and that the area of the crossing is stabilized against significant erosion due to its use as a crossing.
- (d) Stream bank stabilization or riparian reforestation, which conform to the guidelines of an approved Riparian Zone Management Plan, or wetlands mitigation projects that have been approved by the New Jersey Department of Environmental Protection, subject to approval by the Zoning Enforcement Officer and subject to compliance with an approved Riparian Zone Management Plan.

240-12.E PERFORMANCE STANDARDS FOR RIPARIAN ZONES

240-12.E(1) All encroachments proposed into riparian zones in C1 waters shall comply with the requirements of the Stormwater Management Rule at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, and shall be subject to review and approval by the New Jersey Department of Environmental Protection, unless exempt.

240-12.E(2) For all other riparian zones, the following conditions shall apply:

- (a) All new major and minor subdivisions and site plans shall be designed to provide sufficient areas outside of the riparian zone to accommodate primary structures, any normal accessory uses appurtenant thereto, as well as all planned lawn areas.
- (b) Portions of lots within the riparian zone must be permanently restricted by deed or conservation easement held by the Town of Newton, its agent, or another public or private land conservation organization which has the ability to provide adequate protection to prevent adverse impacts within the riparian zone. A complete copy of the recorded conservation restriction that clearly identifies the deed book and pages where it has been recorded in the office of the Clerk of the applicable County or the registrar of deeds and mortgages of the applicable County must be submitted to the Municipality. The applicant shall not commence with the project or activity prior to making this submittal and receiving actual approval of the plan modification and receipt of any applicable permits from the New Jersey Department of Environmental Protection. The recorded conservation restriction shall be in the form approved by the municipality and shall run with the land and be binding upon the property owner and the successors in interest in the property or in any part thereof. The conservation restriction may include language reserving the right to make de minimis changes to accommodate necessary regulatory approvals upon the written consent of the municipality, provided such changes are otherwise consistent with the purpose and intent of the conservation restriction. The recorded conservation restriction shall, at a minimum, include:
 - [1] A written narrative of the authorized regulated activity, date of issuance, and date of expiration (if applicable), and the conservation restriction that, in addition, includes all of the prohibitions set forth at N.J.S.A. 13:8B-2b(1) through (7).
 - [2] Survey plans for the property as a whole and, where applicable, for any additional properties subject to the conservation restrictions. Such survey plans shall be submitted on the surveyor's letterhead, signed and sealed by the surveyor, and shall include metes and bounds descriptions of the property, the site, and the areas subject to the

conservation restriction in New Jersey State Plane Coordinates, North American Datum 1983, and shall depict the boundaries of the site and all areas subject to the conservation restriction as marked with flags or stakes onsite. All such survey plans shall be submitted on paper and in digital CAD or GIS file on a media and format defined by the Municipality. The flags or stakes shall be numbered and identified on the survey plan.

- [3] A copy or copies of deeds for the property as a whole that indicate the deed book and pages where it has been recorded in the office of the Clerk of the applicable County or the registrar of deeds and mortgages of the applicable County.
- (c) Any lands proposed for development which include all or a portion of a riparian zone shall as a condition of any major subdivision or major site plan approval, provide for the vegetation or revegetation of any portions of the riparian zone which are not vegetated at the time of the application or which were disturbed by prior land uses, including for agricultural use. Said vegetation plan shall utilize native and non-invasive tree and plant species to the maximum extent practicable in accordance with an approved Riparian Zone Management Plan, described in Subsection 240-12.I.
- (d) For building lots which exist as of the date of adoption of this Ordinance, but for which a building permit or a preliminary site plan approval has not been obtained or is no longer valid, the required minimum front, side, and rear setbacks may extend into the riparian zone, provided that a deed restriction and/or conservation easement is applied which prohibits clearing or construction in the riparian zone.
- (e) All stormwater shall be discharged outside of but may flow through a riparian zone and shall comply with the Standard For Off-Site Stability in the "Standards for Soil Erosion and Sediment Control in New Jersey", established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. (see N.J.A.C. 2:90-1.3.)
- (f) If stormwater discharged outside of and flowing through a riparian zone cannot comply with the Standard for Off-Site Stability cited in Subsection 240-13.E(2)(e), then the proposed stabilization measures must meet the requirements of the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-10.2 et seq., and have an approved flood hazard area permit.

240-12.F NON-CONFORMING STRUCTURES AND USES IN RIPARIAN ZONES

240-12.F(1) Non-conforming structures and uses of land within the riparian zone are subject to the following requirements:

- (a) Legally existing but non-conforming structures or uses may be continued.
- (b) Any proposed enlargement or expansion of the building footprint within the riparian zone of a C1 water shall comply with the standards in the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- (c) For all other riparian zones:
 - [1] Encroachment within the riparian zone shall only be allowed where previous development or disturbance has occurred and shall be in conformance with the Stormwater Management Rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
 - [2] Existing impervious cover shall not be increased within the riparian zone as a result of encroachments where previous development or disturbances have occurred.
 - [3] Discontinued non-conforming uses may be resumed any time within one year from such discontinuance but not thereafter when showing clear

indications of abandonment. No change or resumption shall be permitted that is more detrimental to the riparian zone, as measured against the intent and purpose under Subsection 240-12.A, than the existing or former non-conforming use. This one-year time frame shall not apply to agricultural uses that are following prescribed Best Management Practices for crop rotation. However, resumption of agricultural uses must be strictly confined to the extent of disturbance existing at the time of adoption of this Ordinance.

240-12.G USES PROHIBITED IN RIPARIAN ZONES

- 240-12.G(1) Any use within a riparian zone of a C1 water shall comply with the standards in the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- 240-12.G(2) For other riparian zones, any use or activity not specifically authorized in Subsection 240-12.D or Subsection 240-12.F shall be prohibited within the riparian zone. By way of example, the following activities and facilities are prohibited:
- (a) Removal or clear-cutting of trees and other vegetation or soil disturbance such as grading, except for selective vegetation removal for the purpose of stream or riparian area stabilization or restoration projects that require vegetation removal or grading prior to implementation.
 - (b) Storage of any hazardous or noxious materials.
 - (c) Use of fertilizers, pesticides, herbicides, and/or other chemicals in excess of prescribed industry standards or the recommendations of the Soil Conservation District.
 - (d) Roads or driveways, except where permitted in compliance with Subsection 240-12.D.
 - (e) Motor or wheeled vehicle traffic in any area, except as permitted by this Ordinance.
 - (f) Parking lots.
 - (g) Any type of permanent structure, except structures needed for a use permitted by Subsection 240-12.D.
 - (h) New subsurface sewage disposal system areas. The expansion and replacement of existing subsurface sewage disposal system areas for existing uses is permitted.
 - (i) Residential grounds or lawns, except as otherwise permitted pursuant to this Ordinance.

240-12.H ACTIVITIES PERMITTED IN RIPARIAN ZONES IN THE CASE OF NO REASONABLE OR PRUDENT ALTERNATIVE OR EXTREME HARDSHIP

- 240-12.H(1) A. For riparian zones in C1 waters, requests for exemptions must be authorized by the New Jersey Department of Environmental Protection, as per the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h) and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13.
- 240-12.H(2) For other riparian zones, hardship variances may be granted by the Planning Board in cases of a preexisting lot (existing at the time of adoption of this Ordinance) when there is insufficient room outside the riparian zone for uses permitted by the underlying zoning and there is no other reasonable or prudent alternative to placement in the riparian zone, including obtaining variances from setback or other requirements that would allow conformance with the riparian zone requirements, and provided the following demonstrations are made:
- (a) An applicant shall be deemed to have established the existence of an extreme economic hardship, if the subject property is not capable of yielding a reasonable economic return if its present use is continued or if it is developed in accordance with provisions of this Ordinance and that this inability to yield a

reasonable economic return results from unique circumstances peculiar to the subject property which:

- [1] Do not apply to or affect other property in the immediate vicinity.
- [2] Relate to or arise out of the characteristics of the subject property because of the particular physical surroundings, shape or topographical conditions of the property involved, rather than the personal situations of the applicant; and are not the result of any action or inaction by the applicant or the owner or his predecessors in title.
- [3] The necessity of acquiring additional land to locate development outside the riparian zone shall not be considered an economic hardship unless the applicant can demonstrate that there is no adjacent land that is reasonably available or could be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity.

(b) An applicant shall be deemed to have established compelling public need if the applicant demonstrates, based on specific facts that one of the following applies:

- [1] The proposed project will serve an essential public health or safety need.
- [2] The proposed use is required to serve an existing public health or safety need.
- [3] There is no alternative available to meet the established public health or safety need.

(c) A variance can only be granted if it is shown that the activity is in conformance with all applicable local, State, and Federal regulations, including but not limited to the Stormwater Management Rules, N.J.A.C. 7:8, and the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, and that the exception granted is the minimum relief necessary to relieve the hardship.

240-12.H(3) If such an exception is granted, the applicant shall rehabilitate an environmentally degraded riparian zone area within or adjacent to the same site, and at least equivalent in size to the riparian zone reduction permitted, or, if not possible, rehabilitate or expand a riparian zone area at least equivalent in size within a nearby site and, if available, within the same watershed. Rehabilitation shall include reforestation, stream bank stabilization and removal of debris, in accordance with a Riparian Zone Management Plan, as described in Subsection 240-12.I below.

240-12.I RIPARIAN ZONE MANAGEMENT PLAN

240-12.I(1) Within any riparian zone, no construction, development, use, activity, or encroachment shall be permitted unless the effects of such development are accompanied by preparation, approval, and implementation of a Riparian Zone Management Plan.

240-12.I(2) The landowner, applicant, or developer shall submit to Municipal Clerk, or its appointed representative, a Riparian Zone Management Plan prepared by an environmental professional, professional Engineer or other qualified professional which fully evaluates the effects of any proposed uses on the riparian zone. The Riparian Zone Management Plan shall identify the existing conditions including:

- (a) Existing vegetation.
- (b) Field delineated surface water bodies.
- (c) Field delineated wetlands.
- (d) The 100-year floodplain.
- (e) Flood Hazard Areas, including floodway and flood fringe areas, as delineated by the New Jersey Department of Environmental Protection.
- (f) Soil classifications as found on Soil Surveys.
- (g) Existing subdrainage areas of site with HUC (Hydrologic Unit Code) 14 designations.

- (h) Slopes in each subdrainage area segmented into sections of slopes less than 15 %; above 15 % but less than 20%; and steep slopes greater than 20%.
- 240-12.I(3) The proposed plan shall describe all proposed uses/activities, and fully evaluate the effects of all proposed uses/activities in a riparian zone, and all proposed management techniques, including proposed vegetation and any other measures necessary to offset disturbances to the riparian zone. A discussion of activities proposed as well as management techniques proposed to offset disturbances and/or enhance the site to improve the riparian zone's ability to function effectively as a riparian zone shall also be included with the Riparian Zone Management Plan submittal to the Town of Newton.
- 240-12.I(4) The Plan shall be reviewed and must be approved by the Town Engineer, in consultation with the Planning Board, as part of the subdivision and land development process.
- 240-12.I(5) The Riparian Zone Management Plan must include management provisions in narrative and/or graphic form specifying:
- (a) The manner in which the area within the riparian zone will be owned and by whom it will be managed and maintained.
 - (b) The conservation and/or land management techniques and practices that will be used to conserve and protect the riparian zone, as applicable.
 - (c) The professional and personnel resources that are expected to be necessary, in order to maintain and manage the riparian zone.
 - (d) A re-vegetation plan, if applicable, that includes: three (3) layers of vegetation, including herbaceous plants that serve as ground cover, understory shrubs, and trees that when fully mature, will form an overhead canopy. Vegetation selected must be native, non-invasive species, and consistent with the soil, slope and moisture conditions of the site. The revegetation plan shall be prepared by a qualified environmental professional, landscape architect, or professional Engineer, and shall be subject to the approval of the Town Engineer in consultation with the Planning Board. Dominant vegetation in the Riparian Zone Management Plan shall consist of plant species that are suited to the riparian zone environment. The Town Engineer may require species suitability to be verified by qualified experts from the Soil Conservation District, Natural Resources Conservation Service, New Jersey Department of Environmental Protection, US Fish and Wildlife Service and/or State or Federal forest agencies.
- 240-12.I(6) A Riparian Zone Management Plan is not required where the riparian zone is not being disturbed and conservation easements/deed restrictions are applied to ensure there will be no future clearing or disturbance of the riparian zone.
- 240-12.I(7) Performance of the Riparian Zone Management Plan shall be guaranteed for two years by a surety, such as a bond, cash or letter of credit, which shall be provided to the Town of Newton prior to the Town issuing any permits or approving any uses relating to the applicable use or activity.
- 240-12.J BOUNDARY INTERPRETATION, APPEALS PROCEDURES, INSPECTIONS, CONFLICTS, SEVERABILITY**
- 240-12.J(1) When a landowner or applicant disputes the boundaries of a riparian zone, or the defined bank-full flow or level, the landowner or applicant shall submit evidence to the Town Clerk that describes the riparian zone, presents the landowner or applicant's proposed riparian zone delineation, and presents all justification for the proposed boundary change, including but not limited to, a verification issued under the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-6, or an approval from the New Jersey Department of Environmental Protection to encroach within the Special Water Resource Protection Area (SWRPA) of a C1 water pursuant to the Stormwater Management Rules at N.J.A.C. 7:8-5.5(h)1ii.

- 240-12.J(2) Within 45 days of a complete submission of Subsection 240-12.J(1) above, the Town Engineer or appointed representative, shall evaluate all material submitted and shall make a written determination, a copy of which shall be submitted to the Planning Board Secretary, the Municipal Clerk and the landowner or applicant. Failure to act within the 45-day period shall not be interpreted to be an approval of the proposed boundary change.
- 240-12.J(3) Any party aggrieved by any such determination or other decision or determination under Subsection 240-12.J(2). may appeal to the Zoning Officer under the provisions of this Ordinance. The party contesting the location of the riparian zone boundary shall have the burden of proof in case of any such appeal.
- 240-12.J(4) Any party aggrieved by any determination or decision of the Zoning Officer under this Ordinance may appeal to the Town Council of the Town of Newton. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.
- 240-12.J(5) Inspections:
- (a) Lands within or adjacent to an identified riparian zone shall be inspected by the Town Engineer when:
 - [1] A subdivision or land development plan is submitted.
 - [2] A building permit is requested.
 - [3] A change or resumption of a non-conforming use is proposed.
 - [4] A discontinued non-conforming use is resumed more than a year later, as described in Subsection 240-12.F.
 - (b). The riparian zone may also be inspected periodically by representatives from the Town of Newton if excessive or potentially problematic erosion is present, other problems are discovered, or at any time when the presence of an unauthorized activity or structure is brought to the attention of municipal officials or when the downstream surface waters are indicating reduction in quality.
- 240-12.J(6) Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this Ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance apply.
- 240-12.J(7) Severability:
- (a) Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
 - (b) Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
 - (c) The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

240-12.K ENFORCEMENT

A prompt investigation shall be made by the appropriate personnel of the Town of Newton, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action may be instituted in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the Town Of Newton, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or Subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or Subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

Section 240-16. Guarantees and Substantial Completion

Subsections:

- 240-16.A Guarantees Required
- 240-16.B Extension of Performance Guarantees
- 240-16.C Substantial Completion of Improvements
- 240-16.D Completion of Improvements; Liability of Obligor
- 240-16.E Notification to Obligor

240-16.A GUARANTEES REQUIRED

As a condition of final site plan approval, the reviewing Board may require and shall accept in accordance with the standards adopted by Subsections 240-3.J and 240-5.A, for the purpose of assuring the installation and maintenance of on-tract improvements, a performance guarantee. Off-tract improvements may be required pursuant to the provisions of section 240-5.H Maintenance guarantees may also be required following completion of improvements, in accordance with Subsection 240-3.J.

240-16.B EXTENSION OF PERFORMANCE GUARANTEES

Whenever it is required as a condition of subdivision or site plan approval that a performance guarantee must be furnished in favor of the Municipality in an amount not exceeding 120 percent of the estimated cost of any required improvements within a stated time, the time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Town Council by resolution. As a condition of or as a part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120 percent of the cost of the installation, as determined as of the time of passage of the resolution.

240-16.C SUBSTANTIAL COMPLETION OF IMPROVEMENTS

Upon substantial completion of all required appurtenant street improvements (except for the top course) and utility improvements and the connection of same to the public system, the obligor may notify the Town Council in writing of such completion or substantial completion, as provided for in N.J.S.A. 40:55D-53d and, after inspection and report of the Town Engineer, the Town Council may approve, partially approve, or reject the improvements. Where partial approval is granted, the bond of the obligor may be reduced, provided that 30 percent of the amount of the performance guarantee posted may be retained to insure completion of all improvements. Notice shall be given to the obligor as required by N.J.S.A. 40:55D-53d.

240-16.D COMPLETION OF IMPROVEMENTS; LIABILITY OF OBLIGOR

240-16.D(1) When all of the required improvements have been completed, the obligor shall notify the Town Council in writing, by certified mail addressed in care of the Town Clerk, of the completion of such improvements and shall send a copy thereof to the Town Engineer. Thereupon, the Town Engineer shall inspect all of the improvements and shall file a detailed report in writing with the Town Council, indicating either approval, partial approval or rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.

240-16.D(2) If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor or surety, if any, shall be liable thereon to the Town for the reasonable cost of the improvements not completed or corrected and the Town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

240-16.D(3) If any portion of the required improvements is rejected, the reviewing Board may require the obligor to complete such improvements and, upon completion, the same procedure of notification as set forth in this section shall be followed.

240-16.E NOTIFICATION TO OBLIGOR

The Town Council shall either approve, partially approve, or reject the improvements on the basis of the report of the Town Engineer pursuant to N.J.S.A. 40:55D-53.d and 40:55D-53. e.

Section 240-17. Validity

240-17.A VALIDITY

If any section, paragraph, sentence, clause or provision of this Chapter shall be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify this Chapter as a whole and such adjudication shall apply only to the section, paragraph, sentence, clause or provision so adjudged, and the remainder of this Chapter shall be deemed valid and effective.

Section 240-18. Administration and Enforcement

240-18.A ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter. The Zoning Officer shall investigate any violation or alleged violation of this Chapter coming to his attention and shall have, to the extent applicable, all of the powers to exercise all of the functions and duties with respect to this Chapter as set forth in Chapter 320-30.2 of the revised general ordinances of the Town of Newton.

SCHEDULE A LIGHTING

Maintained Illuminance for Parking Lots Enhanced Basic Security Horizontal Illuminance

Minimum 0.2 fc 0.5 fc

Average 1.0 fc 2.5 fc

Uniformity Ratios

Average to Minimum 5:1 5:1

Maximum to Minimum 20:1 15:1

Minimum Vertical Illuminance 0.1 fc 0.25 fc

1. Minimum horizontal illuminance shall be no lower than 0.2 fc.
2. Average horizontal illuminance shall not exceed 2.5 fc.
3. Uniformity ratios are to be used as a guide.
4. Minimum vertical illuminance shall be measured at 5.0 feet above parking surface at the point of lowest horizontal illuminance, excluding facing outward along boundaries.
4. For typical conditions. During periods of non-use, the illuminance of certain parking facilities should be turned off or reduced to conserve energy. If reduced lighting is to be used only for the purpose of property security, it is desirable that the minimum (low Point) not be less than 0.1 hfc in susceptible areas of the property. Reductions should not be applied to facilities subject to intermittent night use, such as apartments, hospitals and active transportation areas.
5. If personal security or vandalism is a likely and/or severe problem, an increase above the Basic level may be appropriate.
6. High vehicular traffic locations should generally require the Enhanced Level of illumination. Exits, entrances, internal connecting roadways and such would be some examples.
7. Increasing the above illuminance is not likely to increase safety and security. Variance requests for higher levels will generally be for "retail" reasons and should not be granted unless shown to be necessary and at an average illuminance not to exceed 3.6 fc. Certain data above has been summarized from IESNA RP-20-98, titled "Lighting for Parking Facilities".

SCHEDULE B	
TYPES OF FACILITIES OR USES THAT ARE DEEMED TO BE MAJOR POTENTIAL POLLUTANT SOURCES	
1	Permanent storage or disposal of hazardous wastes, industrial or municipal sludge or radioactive materials, including solid waste landfills.
2	Collection and transfer facility for hazardous wastes, solid wastes that contain hazardous materials, and radioactive materials.
3	Any use or activity requiring the underground storage of a hazardous substance or waste and regulated by NJDEP under provisions of the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 <i>et seq.</i>), which includes farm or residential underground storage tanks of motor fuel for noncommercial purposes with a capacity greater than 1,100 gallons.
4	Above-ground storage or treatment facility for a hazardous substance or waste with a cumulative capacity greater than 2,000 gallons.
5	Underground heating oil storage for on-site consumption with a capacity greater than 2,000 gallons.
6	Unlined retention/detention pond that receives stormwater discharge from a highway.
7	Industrial or sanitary wastewater treatment plant.
8	Pipeline, except natural gas.
9	Automotive service center (repair & maintenance), car or truck washing facility, truck, bus, or locomotive maintenance yard or terminal.
10	Petroleum refinery, bulk station, terminal, or fuel dispensing or loading facility.
11	Road salt storage facility.
12	Site for storage and maintenance of heavy construction equipment and materials.
13	Junkyard, auto recycling, scrap metal, or scrap industry facility.
14	Resource Conservation Recovery Act (RCRA) treatment, storage, and disposal facility.
15	Toxic Catastrophe Prevention Act facility.
16	Facility requiring Discharge Cleanup and Removal (DCR) Plans.
17	Solid waste recovery facility (SWRRF), solid waste transfer facility (SWE), or Class B recycling facility.
18	Compost facility excluding individual household compost units.
19	Disinfecting & pest control service.
20	Solvents recovery service.
21	Industrial or commercial laundry, dry cleaner, or carpet/upholstery cleaner.
22	Quarrying and/or mining facility.
23	Textile mill with finishing operations (dyeing, coating, etc.) or leather tanning & finishing.
24	Manufacturing, repair or product processing facility using hazardous substances for wood preserving, reconstituting wood products, furniture, or fixtures with metal finishing.
25	Manufacturing or processing facility for inorganic chemicals, alkalies, chlorine, industrial gases, inorganic pigments, plastic materials, synthetic resins, pharmaceuticals, soaps, detergents, paints, gum and wood chemicals, industrial organic chemicals, pesticides and agricultural chemicals, photographic chemicals, adhesives, sealants, rubber or plastic.
26	Steel mill.
27	Metal foundry, smelter, forging, fabricating, plating, coating, or finishing facility.

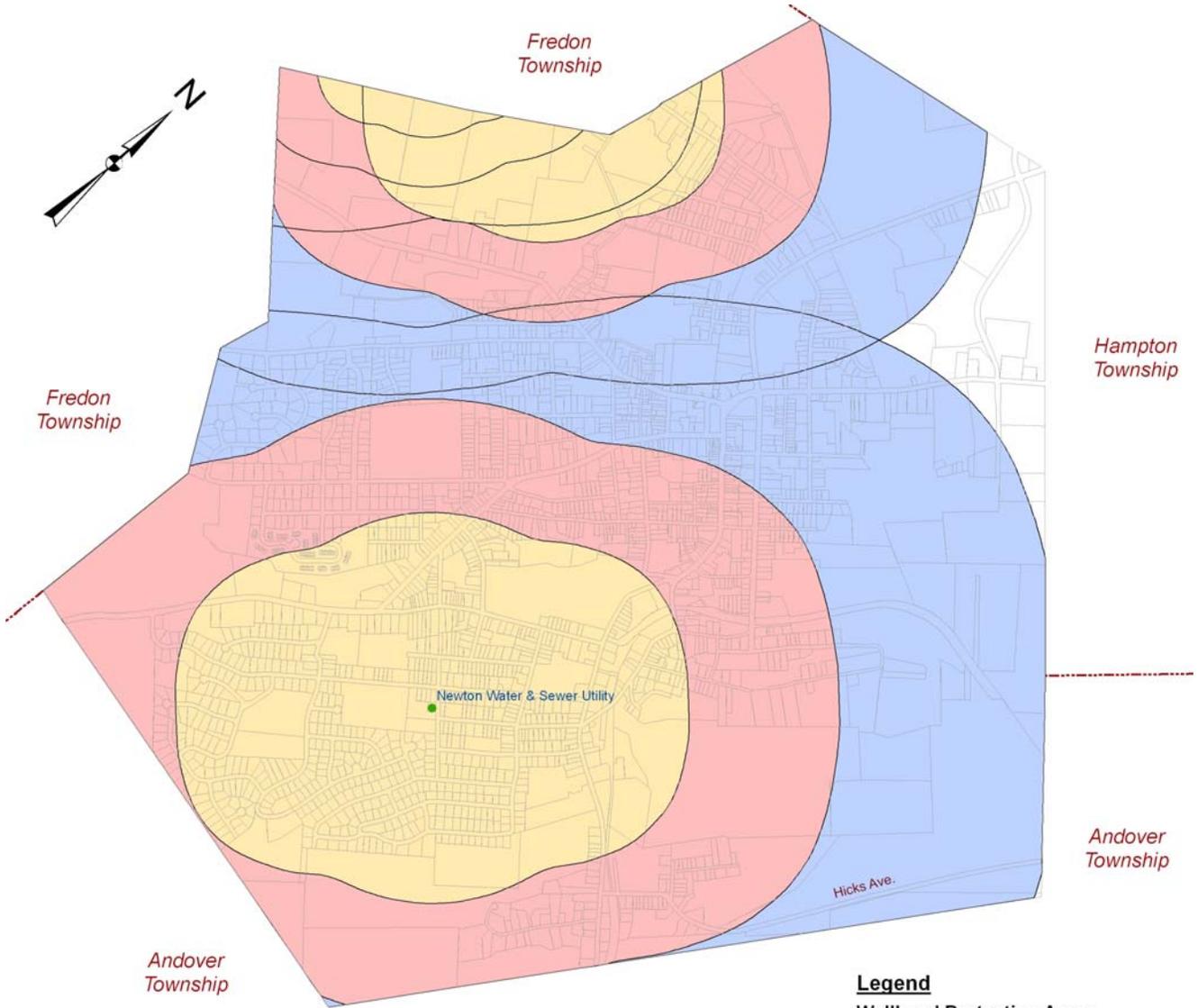
SCHEDULE B	
TYPES OF FACILITIES OR USES THAT ARE DEEMED TO BE MAJOR POTENTIAL POLLUTANT SOURCES	
28	Manufacturing, assembly or packing of Ordinance with explosive load.
29	Manufacturing or processing facility for electronic equipment, carbon and graphite products, cathode ray tubes, printed circuit Boards, semiconductors, electronic crystals, controlling instruments or batteries.
30	Manufacturing or processing facility for transportation equipment or ship building.
31	Repair shop with metal finishing.
32	Pulp, paper, and paperboard mill.
33	Printing & publishing facility.
34	Weapons testing grounds.
35	Military facility.
36	Electrical power plant or substation.
37	Hospital or medical laboratory.
38	Research organization using hazardous substances.
39	Cemetery or funeral home or such facilities with embalming facilities.
40	Site for storage and maintenance of equipment and materials for landscaping.
41	Livestock operation.
42	Agricultural use that does not use NJDEP approved Best Management Practices for agricultural chemical bulk storage, mixing or loading, including crop dusting or spraying facilities.
43	Nursery that does not use NJDEP approved Best Management Practices.
44	Golf course that does not use NJDEP approved Best Management Practices.

SCHEDULE C TYPES OF FACILITIES OR USES THAT ARE DEEMED TO BE MINOR POTENTIAL POLLUTANT SOURCES	
1	Underground storage of hazardous substance or waste of less than 50 gallons.
2	Underground heating oil storage tank for on-site consumption with a capacity of less than 2,000 gallons.
3	Farm or residential underground storage tanks used for storing motor fuel for noncommercial purposes with a capacity of 1,100 gallons or less.
4	Sanitary sewer system, including sewer line, manhole, or pump station within 100 feet of a regulated well. (See conditions below.)
5	Industrial waste line. (See conditions below.)
6	Septic leaching field.
7	Facility requiring a ground water discharge permit issued by the NJDEP pursuant to N.J.A.C. 7:14A <i>et seq.</i> , unless required for remediation of a contaminated site.
8	Stormwater retention-recharge basin.
9	Dry well. (See conditions below.)
10	Storm water line within 100 feet of a regulated well. (See conditions below.)
11	Above-ground storage of hazardous substance or waste in quantities of less than 2,000 gallons.
12	Any "industrial establishment" facility subject to the rules of the Industrial Site Remediation Act (N.J.A.C. 7:26B) and listed in Appendix A that is deemed by the Administrative Authority of the Town of Newton to be of sufficient risk to the water supply to be considered a Minor Potential Pollutant Source.

Conditions:

- a. Sanitary sewer lines, industrial waste lines and storm water lines may not be located within 100 feet of a regulated well, unless they are constructed of watertight materials and joints and provided with suitable corrosion protection.
- b. Manholes and/or connections to a sanitary sewer system are prohibited within 100 feet of a regulated well.
- c. Dry wells dedicated to roof runoff and serving residential properties or commercial or industrial properties not listed in Schedule B are permitted in any Tier but may not be located within 100 feet of a regulated well.
- d. Aboveground heating oil storage tanks, 2,000 gallons or less, shall be permitted in any tier subject to approval by the Administrative Authority of containment provisions in accordance with Subsection 240-10.F herein and shall not be located within 100 feet of a regulated well. The new aboveground tank and containment measures as specified herein shall be exempt from impervious coverage requirements for the zone. The aboveground containment volume shall be at least as large as required to contain a spill of the contents of an aboveground tank. The aboveground tank is permitted within any side or rear yard but shall conform to the minimum setback requirement for accessory structures. The aboveground tank site shall also include fencing or landscaping sufficient to provide a screen of the proposed aboveground tank and containment apparatus from adjacent properties.
- e. An aboveground fuel storage tank for emergency electrical generators with maximum fuel storage capacity of 2,000 gallons or less shall be permitted in any Tier subject to approval by the Administrative Authority of containment provisions in accordance with Subsection 240-10.G herein and shall not be located within 100 feet of a public community or public nontransient noncommunity well.

**SCHEDULE D
WELLHEAD PROTECTION AREAS MAP**



Legend

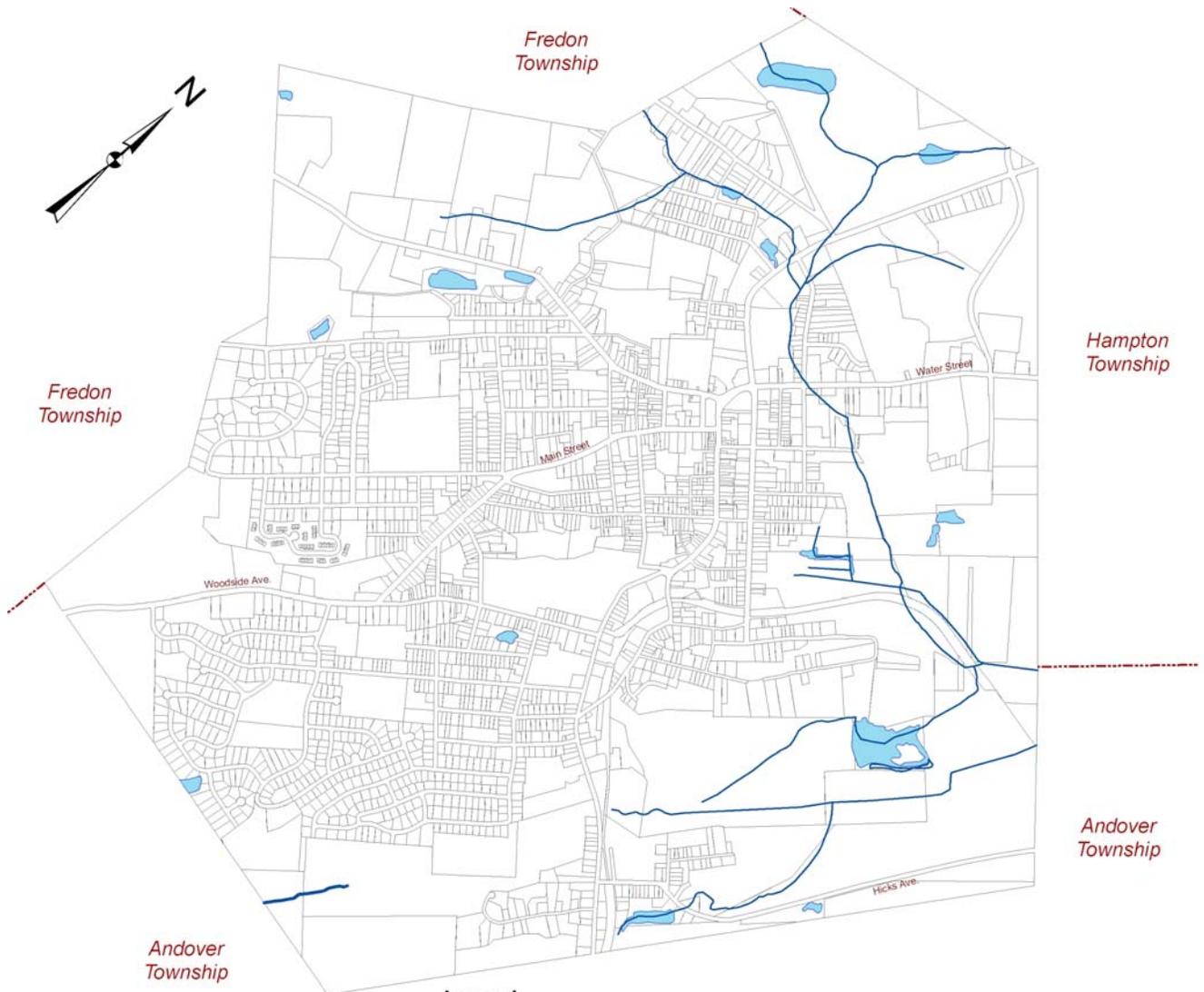
Wellhead Protection Areas

- Wellhead Protection Areas

Tier

- 2 years
- 5 years
- 12 years

SCHEDULE E RIPARIAN ZONES MAP



Legend

N.J.D.E.P. Surface Water Quality Classifications

- FW2-NT, C2 (Non-ONRWs, Non-Trout Waters, Category Two) 50 foot buffer
- FW2-TM, C2 (Non-ONRWs, Trout Maintenance Waters, Category Two) 150 foot buffer

**SCHEDULE D
PLANNING BOARD APPLICATION CHECKLIST**

TOWN OF NEWTON, SUSSEX COUNTY, NEW JERSEY

COMPLETE	INCOMPLETE	WAIVER	NA	ADMINISTRATIVE	MINOR SUB-DIVISION	MINOR SITE PLAN	PRE-LIMINARY SITE PLAN	PRE-LIMINARY MAJOR SUBDIVISION	FINAL SITE PLAN	FINAL MAJOR SUB-DIVISION	VARIANCE REQUEST ("C" & "D")	APPEAL ZONING INTERPRETATION
				1. Application Form (Original Plus 19 Copies)	X	X	X	X	X	X	X	X
				2. Fees and Escrow Deposits	X	X	X	X	X	X	X	X
				3. Certification of Taxes, Liens, Assessments Paid	X	X	X	X	X	X	X	X
				4. Twenty (20) Copies of Proposed Plan	X	X	X	X	X	X	X	X
				5. Affidavit of Ownership/Authorization Form	X	X	X	X	X	X	X	X
				6. Site Inspection Authorization	X	X	X	X	X	X	X	X
				7. Compliance with Legal Notice Requirements a. Proof of Publication b. Affidavit of Service			X	X			X	X
				8. Corporation or Partnership Form	X	X	X	X	X	X	X	X
				9. Listing of All Variances, Design Standards and Checklist Waivers and Justification	X	X	X	X	X	X	X	X
				10. Copies of All Prior Resolutions Pertaining to this Property	X	X	X	X	X	X		X
				11. Two Recent Photographs of the Property	X	X	X	X	X	X	X	X
				12. Copy of Sussex County Planning Board Application	X	X	X	X	X	X	X	
				13. Copy of Soil Erosion/Sediment Control Application		X	X	X	X	X	X	
				14. Copy of NJDOT/NJDEP Applications	X	X	X	X	X	X	X	

COMPLETE	INCOMPLETE	WAIVER	NA	PLANS/REPORTS-SPECIFICATIONS	MINOR SUB-DIVISION	MINOR SITE PLAN	PRE-LIMINARY SITE PLAN	PRE-LIMINARY MAJOR SUB-DIVISION	FINAL SITE PLAN	FINAL MAJOR SUB-DIVISION	VARIANCE REQUEST ("C" & "D")	APPEAL ZONING INTER-PRETATION
				15. Plan Clearly and Legibly Drawn or Reproduced at a Scale not Smaller Than 1 Inch Equals 50 Feet	X	X	X	X	X	X	X	
				16. Sheet Size, 24" x 36"	X	X	X	X	X	X	X	
				17. Name, Address, License Number of Plan Preparer, Signature, Original Raised Seal	X	X	X	X	X	X	X	
				18. Title Block	X	X	X	X	X	X	X	
				19. Record Owner(s) Name and Address	X	X	X	X	X	X	X	
				20. Applicant's Name, Address, Phone Number, Fax Number and E-Mail	X	X	X	X	X	X	X	
				21. Name of Project, if any	X	X	X	X	X	X	X	
				22. Date of Map Preparation and Each Subsequent Revision	X	X	X	X	X	X	X	
COMPLETE	INCOMPLETE	WAIVER	NA	PLANS/REPORTS-SPECIFICATIONS	MINOR SUBDIVISION	MINOR SITE PLAN	PRELIMINARY SITE PLAN	PRELIMINARY MAJOR SUBDIVISION	FINAL SITE PLAN	FINAL MAJOR SUBDIVISION	VARIANCE REQUEST ("C" & "D")	APPEAL ZONING INTERPRETATION
				23. Zoning District of Parcel and Surrounding Lands	X	X	X	X	X	X	X	
				24. Zoning Chart Listing Existing/Proposed Requirements for Area, Setbacks, Lot Coverage Height, Density, Parking	X	X	X	X	X	X	X	
				25. Proposed Developer's Agreement					X	X		
				26. Existing	X		X	X	X	X	X	

				Structures within 200 Feet (200') and Distance to Property Line								
				27. Obtain Each Block and Lot Numbered in Conformity with the Municipal Tax Map as Determined by the Municipal Tax Assessor and Obtain Street Address from the 911 Coordinators	X		X	X	X	X	X	
				28. Scale of Map, Both Written and Graphic	X	X	X	X	X	X	X	
				29. North Arrow Giving Reference Meridian	X	X	X	X	X	X	X	
				30. Properties within 200 Feet, Lot and Block Number and Owner, Outline of 200 Foot (200') Perimeter, 500 feet for lots over 50 acres in size.			X	X	X	X	X	
				31. Tax Map Sheet Number	X	X	X	X	X	X	X	
				32. Key Map Showing Location of Tract to be Considered in Relation to Surrounding Area, Within 200 feet. Scale not Less Than 1 Inch Equals 400 Feet and North Arrow.	X	X	X	X	X	X	X	
				33. Area of Entire Tract	X	X	X	X	X	X	X	
				34. Metes and Bounds of Proposed Lot(s)	X		X	X	X	X	X	
				35. Area and Frontage of Proposed Lot(s)	X		X	X	X	X	X	
				36. Area/Frontage of Remaining Tract	X		X	X	X	X	X	

				37. Property Lines to the Nearest Hundredth	X		X	X	X	X	X	
				38. Bearings to the Nearest Second	X		X	X	X	X	X	
				39. Lot Acreage to the Nearest Hundredth	X	X	X	X	X	X	X	
				40. Building Envelopes	X	X	X	X	X	X	X	
				41. Location of Existing Railroads, Bridges, Culverts, Drainage Pipe, Water and Sewer, Utility Poles & Underground Utilities	X	X	X	X	X	X	X	
				42. Natural Features Including Existing Vegetation, Wet Areas, Watercourse, Flood Plain Limit, Rock Outcropping	X	X	X	X	X	X		
				43. Open Space, Buffer Zone, Recreation Areas, Municipal and Public Areas and Lands to be Conveyed to the Town If Applicable			X	X	X	X		
				44. Plan and Profiles of Road Locations, Type, Size, Width of Right-of-Way, Paving Materials, Edge of Pavement, Curbs, Sidewalks, Catch Basins, Drainage Structures, All Utilities, Rights-of-Way Easements, Existing Buildings or Other Structures. Profile Shall be at a Scale of 1 Inch Equals 5 Feet Vertical; 1 Inch Equals			X	X	X	X		

				50 Feet Horizontal.								
				45. Road Cross Sections Every Fifty Feet (50') Along Centerline at a Scale of 1 Inch Equals 5 Feet Horizontal and Vertical			X	X	X	X		
				46. Existing and Proposed Contours at Five Foot (5') Intervals for Slopes Fifteen Percent (15%) or Greater, Two Foot (2') Intervals for Lesser Slopes			X	X	X			
				47. Earthwork Summary			X	X				
				48. Cut and Fill Limits			X	X	X			
				49. Location of Proposed Drainage Structures, Curbs, Swales, Berms, Guide Rails, Edge of Pavement, Sidewalks			X	X	X	X		
				50. Construction Details for Drainage Structures, Curb, Guide Rail, Pavement Design, Sidewalks, Utilities	X		X	X	X	X		
				51. Existing/Proposed Driveway Locations with Sight Distance Profiles	X		X	X	X	X		
				52. Road Locations, Names, Width of Right-of-Way and Copy of Approval of Street Name	X	X	X	X	X	X	X	
				53. Sight Triangle, Drainage, Utility, Driveway and Other Easements	X	X	X	X	X	X	X	

				54. Provisions for Certification and Approvals	X	X	X	X	X	X	X	
				55. Letter Itemizing All Elements Covered Under Performance Bond					X	X		
				56. Letter of Approval and Certification from Town Engineer					X	X		
				57. Letter Certifying Conformance to Preliminary Plat by Applicant 's Engineer					X	X		
				58. Compliance with All Aspects of NJ Map Filing Law						X		
				59. Soil Erosion Plan and Details		X	X	X				
				60. Fire Protection Details Include Number of Proposed Units, Available Water Supply, Water Main Size, Flow, Hydrant Location			X	X	X			
				61. Cluster Development Option Data				X				
				62. Environmental Impact Statement			X	X				
				63. Landscape Plan with Types, Quantity Size and Location of Plantings. Scientific and Common Names.			X	X	X	X		
				64. Lighting Plan, Including Fixture and Footing Details, Wattage, Height, Isolux Patterns		X	X	X	X	X		
				65. Drainage Plan Including			X	X				

				Runoff Calculations for Fifty (50) Year Storm Frequency and a Map Showing Drainage Area Per Stormwater Management Requirements								
				66. Storm Drainage Facilities Improvements Designed for One Hundred (100) Year Flood Capacity Per Stormwater Management Requirements or as Recommended by Town Engineer			X	X				
				67. Copies of Stream Encroachment Permit Applications, If Applicable			X	X	X	X		
				68. NJDEP Letter of Interpretation Regarding the Presence/Absence of Wetlands on Property and Within 150'. If Wetlands are Present, Line Verified by NJDEP and Transition Area Established. NJDEP Reference Number on Plan. For Minors Only a Delineation is Needed and an Absence/Presence Letter to Determine Buffer Width.	X	X	X	X	X	X	X	
				69. Written Confirmation from Tax Assessor that Proposed Lot Numbers are Acceptable	X			X		X		
				70. Facility Impact Report, Including: a. Sewer			X	X				

				and Water Report b. Sewer and Water Map c. Traffic Impact Statement d. Circulation/Traffic Map								
				71. Copies of Protective Covenants, Deed Restrictions or Homeowner Association Documents			X	X	X	X		
				72. Building Floor Plan, Elevation Views and First Floor Elevation with Overall Building Height			X		X		X	X
				73. Provisions for Solid Waste, Dumpster Enclosure, Recycling Facilities			X		X			
				74. Compliance with ADA Requirements		X	X		X		X	
				75. Graphic/Written Description of Area Surrounding the Site so the Prevailing Zoning and Actual Uses in the Area are Clear							X	X
				76. A Description of Any Alternatives that were Considered							X	
				77. A Statement or Legal Brief which Clarifies Why the Requested Relief Should be Granted							X	X
				78. Copies of All Relevant Documents from the Zoning Officer							X	X
				79. Copy of Current Deed and Verification of	X	X	X	X			X	X

				All Utilities, Easements and Restrictions								
				80. Property Survey Signed and Sealed by a New Jersey Licensed Surveyor	X	X	X	X	X			
				81. A CAD File of Subdivision for Tax Map Updates	X					X		
				82. Final As-Built Plan					X	X		

ORDINANCE 2012-12

SCHEDULE B

CHAPTER 320, FORM BASED CODE

CHAPTER 320 – FORM-BASED CODE

- 320-1. Title and Purpose, Applicability and Intent
- 320-2. Zone Map, Transect Zones and Permitted Uses
- 320-3. Definitions
- 320-4. General Provisions
- 320-5. T-1 – Natural Zone
- 320-6. T-2 – Rural Reserved Zone
- 320-7. T-3 – Neighborhood Residential Zone
- 320-8. T-4 – Neighborhood Services Zone
- 320-9. T-5 – Neighborhood Core Zone
- 320-10. T-6 – Town Core Zone
- 320-11. Special District 1 – Hospital Zone
- 320-12. Special District 2 – College Zone
- 320-13. Special District 3 – Retail / Manufacturing Zone
- 320-14. Special District 4 – Industrial / Manufacturing Zone
- 320-15. Special District 5 – Office / Manufacturing Zone
- 320-16. Special District 6 – Schools Zone
- 320-17. Special District 7 – Senior Community Zone
- 320-18. Special District 8 – Utility Zone
- 320-19. Special District 9 – Planned Neighborhood Development Zone
- 320-20. Building Types
- 320-21. General Design Standards
- 320-22. Street Design Standards/Public Frontage Types
- 320-23. Parking and Residential Driveway Standards
- 320-24. Fencing, Landscaping and Lighting Design Standards
- 320-25. Sign Standards
- 320-26. Standards and Tables
- 320-27. Non-Conforming Lots, Uses and Structures
- 320-28. Conditional Uses
- 320-29. Affordable Housing
- 320-30. Wireless Communication Facilities
- 320-31. Administration and Enforcement
- 320-32. Prohibited Uses

Section 320-1 Title and Purpose, Applicability and Intent

320-1.A TITLE AND PURPOSE

This Chapter shall be known and may be cited as the Form-Based Code Zoning Ordinance of the Town of Newton.

320-1.B APPLICABILITY

- 320-1.B(1) Provisions of this Code are activated by “shall” when required; “should” when recommended; and “may” when optional.
- 320-1.B(2) The provisions of this Code, when in conflict, shall take precedence over those of other codes, ordinances, regulations and standards except the Local Health and Safety Codes.
- 320-1.B(3) Chapter 240 Site Plan and Subdivision shall continue to apply to development applications where appropriate. In the case of conflicting provisions, the provisions of the Form-Based Code Zoning shall apply. The requirements of this Chapter shall not be construed to eliminate the need for an applicant or property owner to obtain approvals from other agencies with jurisdiction, such as the County or the State of New Jersey.
- 320-1.B(4) Where in conflict, numerical metrics shall take precedence over graphic metrics.

320-1.C INTENT

The intent and purpose of this code is to enable, encourage and qualify the implementation of the following policies:

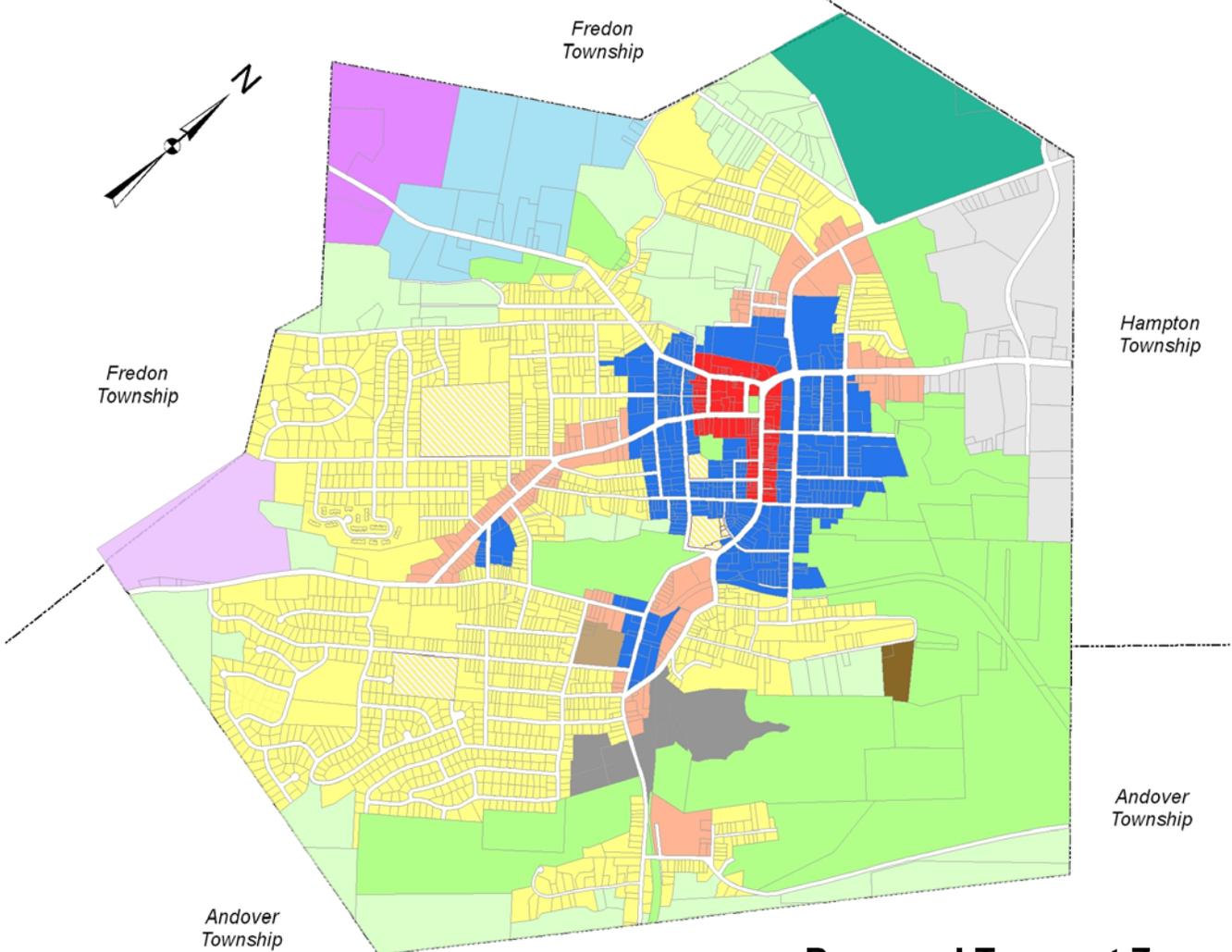
- 320-1.C(1) The Community
- (a) That neighborhoods and Regional Centers should be compact, pedestrian-oriented and Mixed-Use.
 - (b) That neighborhoods and Regional Centers should be the preferred pattern of development and that districts specializing in a single use should be the exception.
 - (c) That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.
 - (d) That interconnected networks of thoroughfares should be designed to disperse traffic and reduce the length of automobile trips.
 - (e) That within neighborhoods, a range of housing types and price levels should be provided to accommodate diverse ages and incomes.
 - (f) That appropriate building densities and land uses should be provided within walking distance of transit stops.
 - (g) That civic, institutional, and commercial activity should be embedded in downtowns, not isolated in remote single-use complexes.
 - (h) That schools should be sized and located to enable children to walk or bicycle to them.
 - (i) That a range of open space including parks, squares, and playgrounds should be distributed within neighborhoods and downtowns.

- 320-1.C(2) The Block and the Building
- (a) That buildings and landscaping should contribute to the physical definition of Thoroughfares as civic places.
 - (b) That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.
 - (c) That the design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.
 - (d) That architecture and landscape design should grow from local climate, topography, history, and building practice.
 - (e) That buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
 - (f) That civic buildings and public gathering places should be provided as locations that reinforce community identity and support self-government.
 - (g) That civic, historic and landmark buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the Town.
 - (h) That the preservation and renewal of historic buildings should be facilitated, to affirm the continuity and evolution of society.
 - (i) That the harmonious and orderly evolution of urban and suburban areas should be secured through form-based codes.
- 320-1.C(3) The Transect
- (a) That municipalities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
 - (b) That the Transect Zone descriptions on Table 1 shall constitute the Intent of this code with regard to the general character of each of these environments.
- 320-1.C(4) User Instructions
- (a) Locate your parcel on the Transect Zoning Map and identify the parcel and Transect Zone or Special District that your parcel is located in.
 - (b) Identify frontage type, building type and permitted uses for the Transect or Special District for you parcel. Refer to the parking and landscaping standards for this Chapter as well as Site Plan and Subdivision Standards in Chapter 240.

Section 320-2 Zone Map, Transect Zones and Permitted Uses

320-2.A TRANSECT ZONE MAP

The following map, "Transect Zone Map," codifies the location and identification of each transect as well as special districts within the Town. The permitted uses for each transect zone or special district are listed in section 320-2.C.



Proposed Transect Zones

- T-1 - Natural Areas
- T-2 - Rural Reserved Areas
- T-3 - Neighborhood Residential
- T-4 - Neighborhood Services
- T-5 - Town Core Support Area / Neighborhood Cores
- T-6 - Town Core
- SD-1 - Hospital District
- SD-2 - College District
- SD-3 - Retail - Manufacturing District
- SD-4 - Industrial - Manufacturing District
- SD-5 - Office - Manufacturing District
- SD-6 - Schools District
- SD-7 - Senior Community District
- SD-8 - Power Substation District
- SD-9 - Planned Neighborhood Development

320-2.B

TRANSECT ZONE DISTRICT AND SPECIAL DISTRICT DESCRIPTIONS

The following section provides the general description and character of each Transect Zone District and Special District.

T-1 – Natural Areas: The T-1 Transect Zone covers the majority of wetlands, water and wetland buffers and lands which are already preserved from development including parks and cemeteries. Uses permitted in the T-1 Transect include parks and recreation uses for active parks, eco-parks and nature preserves for passive recreation including walking trails and bike paths.

T-2 – Rural Reserved Areas: The T-2 Transect Zone covers large tracts of land that are undeveloped, farmlands, former quarries, etc., which are located in the outskirts of Town and should be preserved from intensive development and kept as areas which are open and rural in nature.

T-3 – Neighborhood Residential: The T-3 Transect Zone covers the majority of the single family residential areas that span out from the downtown and neighborhood center areas and permitted uses generally include single family residential, live/work units and accessory apartments.

T-4 – Neighborhood Services: The T-4 Transect Zone covers smaller mixed use neighborhood centers and supports larger neighborhood centers that provide local services to neighborhoods. T-4 uses are generally mixed-use buildings with retail and/or offices on the first floor and offices and/or apartments on the upper floors.

T-5 – Town Core Support Area/ Neighborhood Cores: The T-5 Transect Zone covers the area surrounding the Town Core that provides the majority of the housing and employment that directly supports the Town Core. The T-5 Transect also provides for Neighborhood Cores to serve some of the neighborhoods which are closer to the Town Core area. The permitted uses in the T-5 Transect generally include mixed-use, hotels, offices and multi-family buildings.

T-6 – Town Core: The T-6 Transect is a higher density, mixed and multiple use downtown area. This area provides for the majority of retail and commercial uses within the Town and should be identified as the Central Business District within the Town. This area has residential and office uses over the commercial uses to support day and evening uses in the downtown.

Special District 1: Hospital District –SD-1 covers the Newton Medical Center and support services for the hospital. The district is intended for hospital and medical uses and offices.

Special District 2: College District –SD-2 covers the Sussex County Community College Campus. The district is intended for a college use and college support services. Student housing is permitted.

Special District 3: Retail / Manufacturing District –SD-3 covers the area along US Route 206 at its intersection with North and South Park Drive. This area includes existing large scale retail and industrial uses. The area has potential to accept relocated light manufacturing and industrial uses which currently exist in redevelopment areas.

Special District 4: Industrial / Manufacturing District –SD-4 covers the existing Industrial site and adjacent lands along and across from Sparta Avenue. This area includes an existing manufacturing facility and has potential for additional manufacturing and light industrial development to provide industries and employment within the Town. This area also has potential to accept relocated light manufacturing and industrial uses which currently exist in redevelopment areas. Where proposed development abuts residential areas, year-round buffers should be provided.

Special District 5: Office / Manufacturing District –SD-5 covers the Sparta Avenue redevelopment area, where office, light industrial and manufacturing uses are permitted.

Special District 6: Schools District –SD-6 covers the Newton High School, Halsted Street School and Merriam Avenue Elementary School. The district is intended for school uses and support services.

Special District 7: Senior Community District –SD-7 covers the Bristol Glen / United Methodist Homes Continuing Care and Assisted Living Facility. This district is intended for a continuing care retirement community and related support services.

Special District 8: Power Substation District –SD-8 covers the Newton Power Substation. The district is intended for use as a power substation and related uses.

Special District 9: Planned Neighborhood Development District –SD-9 covers approximately 52 acres along High Street at the western edge of Town. This area is intended for a planned mixed use and residential district that will incorporate affordable housing.

320-2.C

PERMITTED USES

The following tables show permitted uses by Transect Zone and Special District. A mix of uses is permitted based on building types designated as such. Unless expressly permitted in the table, all other uses are deemed to be prohibited.

Permitted Uses Table – Transect Zones							
Use	Transect						
	Government/Civic/Institutional	T-1	T-2	T-3	T-4	T-5	T-6
1	Private or parochial school	NP	NP	NP	P	P	P
2	Institutional Use	NP	NP	NP	P	P	P
3	General Hospital, Nursing Home Convalescent home	NP	NP	NP	P	P	NP
4	Community garden	P	P	P	P	P	P
5	Emergency services	NP	NP	P	P	P	P
6	Plaza/square/piazza	NP	NP	NP	P	P	P
7	Hospital/medical center	NP	NP	NP	NP	NP	NP
8	Cultural uses (museum/gallery/library)	NP	NP	NP	P	P	P
9	Park/Playground	P	P	P	P	P	P
10	House of worship	NP	P	P	P	P	P
11	All public buildings and uses	NP	NP	NP	P	P	P
12	Government or public utility use (not including storage uses and garages)	P	P	P	P	P	P
13	Governmental administrative/institutional uses	NP	NP	NP	P	P	P
14	Judicial	NP	NP	NP	NP	P	P
15	Law Enforcement	NP	NP	NP	P	P	P
16	Public works	P	P	P	P	P	P
17	Community Center/Senior Center	NP	P	P	P	P	P
18	Cemeteries	C	C	C	NP	NP	NP
	Commercial Retail Services	T-1	T-2	T-3	T-4	T-5	T-6
19	Antique Stores	NP	NP	NP	P	P	P
20	Appliance Stores	NP	NP	NP	P	P	P
21	Arts and Crafts Stores	NP	NP	NP	P	P	P
22	Bakeries	NP	NP	NP	P	P	P
23	Banks	NP	NP	NP	P	P	P
24	Beauty Salons, spas and barber shops	NP	NP	NP	P	P	P
25	Bed and breakfasts	NP	C	C	P	P	P
26	Auto Body Shops	NP	NP	NP	C	C	NP
27	Book Stores (excluding adult book stores)	NP	NP	NP	P	P	P
28	Camera and photographic supply stores	NP	NP	NP	P	P	P
29	Candy and Ice Cream Shops	NP	NP	NP	P	P	P

	Commercial Retail Services (cont.)	T-1	T-2	T-3	T-4	T-5	T-6
30	Clothing apparel and shoe stores	NP	NP	NP	P	P	P
31	Child care centers	NP	NP	P	P	P	PS
32	Coffee shops	NP	NP	NP	P	P	P
33	Computer supplies and software stores	NP	NP	NP	P	P	P
34	Cosmetic stores, beauty supply stores and perfumeries	NP	NP	NP	P	P	P
35	Delicatessens	NP	NP	NP	P	P	P
36	Department stores	NP	NP	NP	P	P	P
37	Diners, cafes and restaurants	NP	NP	NP	P	P	P
38	Drug stores	NP	NP	NP	P	P	P
39	Electronics, audio and cell phone stores	NP	NP	NP	P	P	P
40	Farmers' Market	P	P	P	P	P	P
41	Florists	NP	NP	NP	P	P	P
42	Food (health) and supplement stores	NP	NP	NP	P	P	P
43	Furniture stores	NP	NP	NP	P	P	P
44	Garden supply stores	NP	NP	NP	P	P	P
45	Gas Stations	NP	NP	NP	C	C	NP
46	Grocery stores and specialty food stores	NP	NP	NP	P	P	P
47	Hobby, toy and game stores	NP	NP	NP	P	P	P
48	Home goods, furnishings and accessories stores	NP	NP	NP	P	P	P
49	Hotels (excluding extended stay/efficiencies/single room occupancies)	NP	NP	NP	NP	P	P
50	Jewelers and watch stores (excluding pawn shops)	NP	NP	NP	P	P	P
51	Luggage and leather goods	NP	NP	NP	P	P	P
52	Meat markets	NP	NP	NP	P	P	P
53	Motor Vehicle Sales	NP	NP	NP	C	C	NP
54	Musical instruments and supplies stores	NP	NP	NP	P	P	P
55	Optical goods stores	NP	NP	NP	P	P	P
56	Package goods stores/ liquor stores	NP	NP	NP	P	P	P
57	Paint, wallpaper, and/or hardware stores	NP	NP	NP	P	P	P
58	Pet grooming, pet shops and pet supplies	NP	NP	NP	P	P	P
59	Pharmacies	NP	NP	NP	P	P	P

	Commercial Retail Services (cont.)	T-1	T-2	T-3	T-4	T-5	T-6
60	Photographers and picture framers	NP	NP	NP	P	P	P
61	Recreational facilities, i.e. gym, bowling alley	NP	NP	NP	P	P	P
62	Souvenir shops	NP	NP	NP	P	P	P
63	Sports and recreation stores (excluding gun stores)	NP	NP	NP	P	P	P
64	Stationery, office supply and card stores	NP	NP	NP	P	P	P
65	Taverns and bars	NP	NP	NP	P	P	P
	Business/Office/Professional	T-1	T-2	T-3	T-4	T-5	T-6
66	General and professional offices	NP	NP	NP	P	P	P
67	Business services	NP	NP	NP	P	P	P
68	Laboratory (medical/dental)	NP	NP	NP	P	P	NP
69	Office (professional, dental, medical, veterinary, administrative)	NP	NP	NP	P	P	PS
70	Photo or art studios	NP	NP	NP	P	P	PS
71	Home occupations	NP	C	C	P	P	PS
72	Professional occupations	NP	C	C	P	P	P
73	Licensed Taxicab Business Office	NP	NP	NP	C	C	NP
	Light Industrial	T-1	T-2	T-3	T-4	T-5	T-6
74	Research and development	NP	NP	NP	P	NP	NP
75	Warehouse and storage	NP	NP	NP	NP	NP	NP
76	Light manufacturing	NP	NP	NP	NP	NP	NP
77	Product filling and assembly	NP	NP	NP	NP	NP	NP
78	Artisanal workshop	NP	NP	NP	P	P	PS
79	Food and beverage production	NP	NP	NP	NP	NP	NP
	Residential	T-1	T-2	T-3	T-4	T-5	T-6
80	Single family detached	NP	P	P	P	P	NP
81	Duplex	NP	NP	P	P	P	NP
82	Age restricted	NP	NP	NP	P	P	NP
83	Residential over commercial	NP	NP	NP	P	P	P
84	Flats or Lofts (elevator fed)	NP	NP	NP	P	P	PS
85	Group Care (elder-care, extended care, special care)	NP	C	C	P	P	P
86	Live/work	NP	NP	NP	P	P	P
87	Residential Cluster Development	NP	C	C	NP	NP	NP
	Other						
88	Club, lodge or fraternal organization	NP	C	C	P	P	P
89	Farming and Agricultural Uses	P	C	C	NP	NP	NP
90	Parking Structure as principal use	NP	NP	NP	P	P	P
91	Surface Parking as principal use	NP	NP	NP	P	P	NP
92	Temporary Uses	P	NP	NP	P	P	P

	Accessory Uses	T-1	T-2	T-3	T-4	T-5	T-6
93	Accessory Apartment	NP	P	P	P	P	NP
94	Carport	NP	P	P	P	P	NP
95	Private Garage	NP	P	P	P	P	NP
96	Storage Shed	NP	P	P	P	P	NP
97	Surface Parking Lot	NP	NP	NP	P	P	P
98	Parking Structure	NP	NP	NP	P	P	P
99	Sidewalk Café (March 1- Dec. 1 provided snow and ice are not present).	NP	NP	NP	P	P	P
100	Street Furniture	P	P	P	P	P	P
101	Drive-Through Facility	NP	NP	NP	P	P	NP
102	Outdoor Display (March 1- Dec. 1 provided snow and ice are not present).	NP	NP	NP	P	P	P
103	Outdoor Storage	NP	NP	NP	NP	NP	NP

P – Permitted NP – Not Permitted PS – Permitted on second floor or above only C – Conditional Use

Permitted Uses Table - Special Districts										
Use	Districts									
	Government/Civic/ Institutional	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
1	Private or parochial school	NP	P	NP	NP	NP	P	NP	NP	NP
2	Institutional Use	P	P	NP	NP	NP	P	P	NP	NP
3	General Hospital, Nursing Home ,Convalescent home	P	NP	NP	NP	NP	NP	P	NP	NP
4	Community garden	P	P	NP	NP	P	P	P	NP	P
5	Emergency services	P	P	P	P	NP	NP	P	NP	P
6	Plaza/square/piazza	P	P	NP	NP	P	P	P	NP	P
7	Hospital/medical center	P	NP	NP	NP	NP	NP	P	NP	NP
8	Cultural uses (museum/gallery/library)	P	P	P	NP	NP	P	NP	NP	P
9	Park/Playground	P	P	P	P	P	P	P	NP	P
10	House of worship	P	P	P	P	P	P	P	P	P
11	All public buildings and uses	NP	P	NP	NP	NP	P	P	NP	P
12	Government or public utility use (not including storage uses and garages)	P	P	P	P	P	P	P	P	P
13	Governmental administrative/institutional uses	NP	P	NP	NP	NP	P	P	NP	P
14	Judicial	NP								
15	Law Enforcement	NP	P	NP	NP	NP	P	NP	NP	P
16	Public works	P	P	P	P	P	P	P	P	P
17	Community Center/Senior Center	P	P	P	NP	P	P	P	NP	P
18	Cemeteries	C	NP	C	NP	NP	NP	NP	NP	C
	Commercial Retail Services	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
18	Antique Stores	NP	NP	P	NP	P	NP	NP	NP	P
19	Appliance Stores	NP	NP	P	NP	P	NP	NP	NP	P
20	Arts and Crafts Stores	NP	NP	P	NP	P	NP	P	NP	P
21	Bakeries	NP	P	P	NP	P	NP	P	NP	P
22	Banks	NP	P	P	NP	P	NP	P	NP	P
23	Beauty Salons, spas and barber shops	NP	NP	P	NP	P	NP	P	NP	P
24	Bed and breakfasts	NP	NP	P	NP	P	NP	NP	NP	P
25	Body Shops	NP	NP	C	C	NP	NP	NP	NP	NP
25	Book Stores (excluding adult book stores)	NP	P	P	NP	P	NP	P	NP	P
26	Camera and photographic supply stores	NP	NP	P	NP	P	NP	P	NP	P
27	Candy and Ice Cream Shops	NP	P	P	NP	P	NP	P	NP	P
28	Clothing apparel and shoes	NP	NP	P	NP	P	NP	P	NP	P

Permitted Uses Table - Special Districts										
Use	Districts									
	stores									
	Commercial Retail Services (cont)	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
29	Child care centers	P	P	P	P	P	P	P	NP	P
30	Coffee shops	P	P	P	NP	P	NP	P	NP	P
31	Computer supplies and software stores	NP	NP	P	NP	P	NP	NP	NP	P
32	Cosmetic stores, beauty supply stores and perfumeries	NP	NP	P	NP	P	NP	P	NP	P
33	Delicatessens	P	P	P	NP	P	NP	P	NP	P
34	Department stores	NP	NP	P	NP	P	NP	NP	NP	P
35	Diners, cafes and restaurants	NP	P	P	NP	P	NP	P	NP	P
36	Drug stores	NP	NP	P	NP	P	NP	P	NP	P
37	Electronics, audio and cell phone stores	NP	NP	P	NP	P	NP	NP	NP	P
39	Farmers' Markets	P	P	P	P	P	P	P	P	P
40	Florists	P	NP	P	NP	P	NP	P	NP	P
41	Food (health) and supplement stores	NP	NP	P	NP	P	NP	P	NP	P
42	Furniture stores	NP	NP	P	NP	P	NP	NP	NP	P
43	Garden supply stores	NP	NP	P	NP	P	NP	NP	NP	P
44	Grocery stores and specialty food stores	NP	NP	P	NP	P	NP	NP	NP	P
45	Hobby, toy and game stores	NP	NP	P	NP	P	NP	NP	NP	P
45	Home goods, furnishings and accessories stores	NP	NP	P	NP	P	NP	NP	NP	P
46	Hotels (excluding extended stay/efficiencies/single room occupancies)	NP	NP	P	NP	P	NP	NP	NP	P
47	Jewelers and watch stores (excluding pawn shops)	NP	NP	P	NP	P	NP	NP	NP	P
48	Luggage and leather goods	NP	NP	P	NP	P	NP	NP	NP	P
49	Meat markets	NP	NP	P	NP	P	NP	NP	NP	P
50	Motor Vehicle Sales	NP	NP	C	C	NP	NP	NP	NP	NP
51	Musical instruments and supplies stores	NP	NP	P	NP	P	NP	NP	NP	P
52	Optical goods stores	NP	NP	P	NP	P	NP	NP	NP	P
53	Package goods stores/ liquor stores	NP	NP	P	NP	P	NP	NP	NP	P

	Commercial Retail Services (cont.)	SD- 1	SD- 2	SD- 3	SD- 4	SD- 5	SD- 6	SD- 7	SD- 8	SD- 9
54	Paint, wallpaper, and/or hardware stores	NP	NP	P	NP	P	NP	NP	NP	P
55	Pet grooming, pet shops and pet supplies	NP	NP	P	NP	P	NP	NP	NP	P
56	Pharmacies	P	NP	P	NP	P	NP	P	NP	P
57	Photographers and picture framers	NP	NP	P	NP	P	NP	NP	NP	P
58	Recreational facilities, i.e. gym, bowling alley	NP	P	P	NP	P	NP	P	NP	P
59	Souvenir shops	P	P	P	NP	P	NP	P	NP	P
60	Sports and recreation stores (excluding gun stores)	NP	NP	P	NP	P	NP	NP	NP	P
61	Stationery, office supply and card stores	P	NP	P	NP	P	NP	P	NP	P
62	Taverns and bars	NP	NP	P	NP	P	NP	NP	NP	P
	Business/Office/Professional	SD- 1	SD- 2	SD- 3	SD- 4	SD- 5	SD- 6	SD- 7	SD- 8	SD- 9
63	General and professional offices	NP	NP	P	NP	P	NP	NP	NP	P
64	Business services	NP	NP	P	NP	P	NP	NP	NP	P
65	Laboratory (medical/dental)	P	NP	P	NP	P	NP	NP	NP	P
66	Medical Office (professional, dental, medical, veterinary, administrative)	P	NP	P	NP	P	NP	P	NP	P
67	Photo or art studios	NP	NP	P	NP	NP	NP	NP	NP	P
68	Home occupations	NP	C							
69	Professional occupations	NP	NP	C	C	NP	NP	C	NP	C
70	Licensed taxicab business offices	NP	NP	C	C	NP	NP	NP	NP	NP
	Light Industrial	SD- 1	SD- 2	SD- 3	SD- 4	SD- 5	SD- 6	SD- 7	SD- 8	SD- 9
71	Research and development	P	NP	P	P	P	NP	NP	NP	NP
72	Warehouse and storage	NP	NP	P	P	P	NP	NP	NP	NP
73	Light manufacturing	NP	NP	P	P	P	NP	NP	NP	NP
74	Product filling and assembly	NP	NP	P	P	P	NP	NP	NP	NP
75	Artisanal workshop	NP	NP	P	P	P	NP	NP	NP	NP
76	Food and beverage production	NP	NP	P	C	C	NP	NP	NP	NP
	Residential	SD- 1	SD- 2	SD- 3	SD- 4	SD- 5	SD- 6	SD- 7	SD- 8	SD- 9
77	Single family detached	NP	NP	NP	NP	NP	NP	P	NP	P
78	Duplex	NP	NP	NP	NP	NP	NP	P	NP	P
79	Age restricted	NP	NP	NP	NP	NP	NP	P	NP	P
80	Residential over commercial	NP	P	P	NP	P	NP	P	NP	P
81	Flats or Lofts (elevator fed)	NP	P	NP	NP	P	NP	P	NP	P

	Residential (cont.)	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
82	Group care unit (elder-care, extended care, special care)	P	NP	NP	NP	NP	NP	P	NP	C
83	Live/work	NP	NP	P	NP	P	NP	P	NP	P
84	Residential Cluster	NP								
	Other	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
85	Club, lodge or fraternal organization	NP	P	P	C	C	NP	C	NP	C
86	Farming and Agricultural Uses	C	C	NP	NP	NP	NP	C	NP	C
87	Parking Structure as principal use	P	P	P	NP	P	NP	P	NP	P
88	Surface Parking as principal use	NP	P	P	NP	NP	NP	P	P	P
89	Temporary Uses	P	P	P	P	P	P	P	P	P
	Accessory Uses	SD-1	SD-2	SD-3	SD-4	SD-5	SD-6	SD-7	SD-8	SD-9
90	Accessory Apartment	NP	P							
91	Carport	NP	NP	NP	NP	NP	NP	P	NP	P
92	Private Garage	NP	NP	NP	NP	NP	NP	P	NP	P
93	Storage Shed	NP	NP	NP	NP	NP	NP	P	NP	P
94	Surface Parking Lot	P	P	P	P	P	P	P	P	P
95	Parking Structure	P	P	P	NP	P	P	P	NP	P
96	Sidewalk Café (March 1- Dec. 1 provided snow and ice are not present).	NP	P	P	NP	NP	NP	P	NP	P
97	Street Furniture	P	P	P	NP	P	P	P	NP	P
98	Drive-Through Facility	NP	NP	P	NP	NP	NP	NP	NP	NP
99	Outdoor Displays (March 1- Dec. 1 provided snow and ice are not present)	NP	P	P	NP	NP	NP	P	NP	P
1009	Temporary Outdoor Storage of Manufactured Items Pending Shipment (Max. 48 hours)	NP	NP	P	P	P	NP	NP	NP	NP

P – Permitted NP – Not Permitted PS – Permitted on second floor or above only C – Conditional Use

Section 320-3 Definitions

This Article provides definitions for terms in this Code that are technical in nature or that otherwise may not reflect a common usage of the term. If a term is not defined in this Article, then the common usage of the term shall be utilized.

Accessory Apartment. A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether as part of the same structure as the primary dwelling unit or a detached dwelling unit located above a private garage on the same lot. Also known as an “in-law suite” or as a “granny flat.” The maximum size of an accessory apartment shall be 800 square feet. (syn. Accessory Dwelling Unit)

Accessory Building. A subordinate building or structure on the same lot with a main building or a portion of the main building occupied or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner by a wall or roof, such accessory building shall be considered part of the main building.

Accessory Building Height – An accessory building’s vertical distance measured from the average elevation of the finished grade along the front of the building to mean elevation of the roof surface.

Accessory building setback – The required open space between an accessory building and the front, side and rear lines of a lot.

Accessory Use. A use subordinate to the main use of land or of a building on a lot and customarily incidental thereto.

Affordable Housing. Dwellings consisting of rental or for-sale units that are provided as required under the Fair Housing Act (NJSA 52:27-302 et. Seq.) and meet the requirements of the Uniform Housing Affordability Controls (NJAC 5:80-26.1 et. Seq.).

Antique Store. A place offering antiques for sale. An antique, for purposes of this Chapter, shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

Arbor. An open framework structure that forms a shelter, gateway framework or bower. Its primary purpose is to be a semi-architectural place for climbing plants to grow, while providing shaded seating, directional form to frame a view or to create a private out-of-doors area. An arbor can be arched or square-topped. It differs from a gazebo in that its roof area is open to the elements, while a gazebo traditionally has a solid roof that protects those seated beneath it from the elements.

Arcade. A Private Frontage conventional for Retail use wherein the Facade is a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at the Frontage Line.

Architectural Paneling. Modular, exterior panels applied to a building or structure that are not necessary for the structural integrity of the building or structure. Made of high quality materials such as wood, metal, or stone. Excluding aluminum, vinyl, or steel siding. Used to modulate the facade and create vertical or horizontal breaks.

Artisanal Workshop. Shops of special trade including the manufacturing, compounding assembly processing, packaging or similar treatment of such products as: baked goods, candy, ceramics,

pottery, china, weaving and other textile arts, painting, cooperage, woodworking and other artistic endeavors and similar trades. Retail sales of products made on the premises are encouraged.

Attic. The interior part of a building contained within a pitched roof structure.

Awning. An ancillary lightweight structure usually of canvas, cantilevered from a façade providing shade to the fenestration and spatial containment to the pedestrian. Awnings, to be effective adjunct to a shop front, must thoroughly overlap the sidewalk, be no higher than 10 feet at the front edge of the sidewalk and shall extend no farther than possible as a self-supporting structure (i.e. no visible vertical support poles or columns).

Awning/Canopy Sign. A non-illuminated sign that is attached to, affixed to or painted on an awning or canopy located over a window, door or entrance of a building. Signage is to be placed on the front valance portion of the awning/canopy structure. For non-fabric type awnings/canopies, signage may be placed along the upper edge of the front portion of the canopy. Where applicable, awnings/canopies may contain street numbers, but telephone numbers or product advertising and product logos are prohibited. Awning/canopy signs shall not be internally illuminated.

Bakery. An establishment primarily engaged in the sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service.

Balcony. A platform that projects from the wall of a building and is surrounded by a railing or balustrade.

Bed And Breakfast. An owner-occupied, private residence where one to six rooms for overnight accommodations are provided to lodgers. Breakfast shall be the only meal provided to lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than 28 consecutive days. Compensation for lodging shall be computed by the day. Does not include Boardinghouse or Lodging House. Syn. Lodging.

Block. The aggregate of private lots, passages, rear lanes and alleys, circumscribed by public streets.

Block Face. The aggregate of all the building facades on one side of a block.

Boardinghouse or Lodging House. A dwelling having one kitchen and used for the purpose of providing lodging, or both meals and lodging, for pay or compensation of any kind, whether computed by day, week or month, to persons occupying such dwellings, other than members of a family.

Breezeway. A covered passage one story in height connecting a principal building with another principal building or an accessory building with or without open sides.

Buffer. A landscaped area designed to functionally separate and visually screen the elements and uses of land which abut it, including streets, and to ease the transition between them. Buffers may also function to reduce noise, glare and other nuisances.

Building. A structure having a roof supported by columns or walls, entirely separated from any other structure by space or by walls in which there are no communicating doors, windows or similar openings.

Building Coverage. The percentage of horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings to that of the entire lot, exclusive of appurtenances such as bay windows, balconies, porches, steps, etc.

Building Depth. The mean horizontal distance between the front and rear walls of a building measured in the mean direction of the side walls, exclusive of appurtenances such as bay windows, balconies, porches, steps, etc.

Building Disposition. The placement of a building on its lot.

Building Face Offset. A horizontal measurement between offsets in portions of a front or rear façade, as a means of breaking up the apparent bulk of the continuous exterior walls of a building or group of attached buildings.

Building Frontage. A building's horizontal measurement, parallel to the public right-of-way, of the outer wall that faces a public street.

Building Height. The vertical distance measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface. .

Building Type. A structure category determined by function, disposition on the lot, and configuration, including frontage and height.

Building Width. The mean horizontal distance between the side walls of a building measured in the mean direction of the front and rear walls, exclusive of appurtenances such as bay windows, balconies, porches, steps, etc.

Business Services. Establishments primarily engaged in rendering services to other business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; personnel and employment services; management and consulting services; protective services; equipment rental and leasing; photo finishing, copying and printing; travel; office supply; and similar services.

Bus Stop Shelters or Transit Shelters. A freestanding structure, located on a bus or train route, which is designated to accommodate embarking and disembarking transit passengers.

Carport. A permanent roofed structure permanently open on at least two sides, designed for or occupied by private passenger vehicles.

Cistern. A reservoir or tank for storing rainwater and greywater for the purpose of using it for irrigation or other interior or exterior greywater uses.

Civic. The term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit and municipal parking.

Civic Building. A building designed specifically for a civic function.

Civic Space. An outdoor area dedicated for public use. Civic space types are defined by the combination of certain physical constraints including the relationship between their intended use, their size, their landscaping and the building(s) defining the space.

Club, Lodge or Fraternal Organization. Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Clustering. A subdivision of land which utilizes small lot sizes in order for the density permitted on the entire parcel to be “clustered” onto lots smaller than the permitted density, thereby allowing 40 percent or more of the total parcel to be preserved in a privately- or publicly-owned dedicated open space or farm preserved parcel. The open space or farm preserved parcel must be deed restricted from further subdivision or development.

Coffee Shop or Café. An informal restaurant primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

Colonnade. A roof or building structure, extending over the sidewalk, open to the street and sidewalk except for supporting columns or piers.

Commercial. The term collectively defining workplace, office, retail, and lodging functions.

Commercial Building. A single or multi story building devoted solely to commercial uses. They may be designed as walkups or elevator buildings depending on the number of floors.

Commercial Instructional Activities. Any educational or recreational programs or activities involving team or individual instruction that is conducted in a commercial structure and related to children or adults, including, but not limited to: dance, musical instruments, singing, cooking, martial arts or other sports.

Common Yard. A planted private frontage wherein the facade is set back from the frontage line. It is visually continuous with adjacent yards.

Community Garden. A parcel of land used for the growing of vegetables, flowers, etc. used for human consumption but not for commercial sales. The garden area may at least include, but not be limited to, a greenhouse, an accessory storage building, benches, a watering system and fencing.

Configuration. The form of a building, based on its massing, Private Frontage, and height.

Convalescent Home Or Nursing Home. A facility that provides nursing services and custodial care on a 24-hour basis for individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

Corner Lot. A lot of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135°.

Cornice. The top most element of a building façade composed of moldings for an entablature in formal architecture orders or used alone at the roof line or ceilings.

Cornice Line. A continuous horizontal cornice feature that provides a vertical break within the façade and/or defines the roof line along the top of the building.

Cottage. An Edgeyard building type. A single-family dwelling, on a regular Lot, often shared with an Accessory Building in the back yard.

County. The County of Sussex in the State of New Jersey.

Court. An open, unoccupied space bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanently open space.

Courtyard Building. A building that occupies 3 or more boundaries of its Lot while internally defining one or more private patios.

Craft Store. Any business establishment that produces on the premises articles for sale of artistic quality or effect or handmade workmanship. Examples include candle making, glass blowing, weaving, pottery making, woodworking, sculpting, painting, and other associated activities.

Cultural Uses. Services offered to the public by public, private or nonprofit facilities, such as, but not limited to, museums, art galleries and libraries.

Curb. The edge of the vehicular pavement that may be raised or flush to a Swale. It usually incorporates the drainage system.

Curb Radius. The curved edge of the street cartway at intersections, measured at the edge of the travel lines. Curbs at intersections shall not intrude into the intersection beyond the specified maximum curb radius. Where streets of different use categories intersect, the requirements of the higher intensity street shall govern.

Decorative Paving. Paving that is made up of solid, precise, modular units, stamped concrete, scored concrete, seeded concrete, colored concrete or any combination of the above.

Density. The number of dwelling units within a standard measure of land area.

Design Speed. The maximum safe speed that can be maintained over a specified section of roadway when conditions are so favorable that the design features of the roadway govern. The assumed design speed should be a logical one with respect to the topography, the adjacent land use, and the functional classification of roadway.

Directional Sign. Any on-premises sign limited to directional messages that do not contain a commercial message, principally for pedestrian – or vehicular traffic, such as “one way”, “entrance” and “exit”.

Display Windows. Windows on the ground floor of a building that allow visibility into and out of a commercial space and are used for display.

Dooryard. A private frontage type with a shallow setback and front garden or patio, usually with a low wall at the frontage line.

Drive-Through Facility. A facility associated with a use that by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services and/or obtain goods while remaining in their motor vehicles.

Driveway. A vehicular lane within a Lot, often leading to a garage or parking for the use on the Lot.

Drug Rehabilitation Clinic or Substance Abuse Treatment Facility. A facility used for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

Dry Cleaning Establishment. An establishment or business maintained for the pickup, cleaning and delivery of dry cleaning and/or laundry.

Eave Height. A building's vertical measurement from the mean level of the ground abutting the building to the lowest point of an overhanging eave.

Edgeyard Building. A building that occupies the center of its lot with setbacks on all sides. See *section 320-26.B*.

Effective Parking. The amount of parking required for mixed use after adjustment by the shared parking factor.

Effective Turning Radius. The measurement of the inside turning radius taking parked cars into account.

Elder-Care Center. A building or space in a building and ground used for the daycare of senior citizens, including normal daily health-related care, i.e., medication administration, but not convalescent or nursing care and services, and does not preclude services like flu shots.

Elevation. An exterior wall of a building not along a frontage line. See: Facade.

Elevator Flats. An apartment or condominium building with three or more stories that utilizes an elevator to access the floors of the building.

Emergency Services. Publicly or privately owned safety and emergency services, such as, but not limited to, fire stations, police stations, and emergency medical and ambulance service.

Encroach. To break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public frontage, or above a height limit.

Encroachment. Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public frontage, or above a height limit.

Enfront. To place an element along a frontage, as in "porches enfront the street."

Entertainment. The presentation of the performing arts, including indoor motion picture theaters, theaters for live performances, and indoor and outdoor concert halls. Also includes completely enclosed recreational activities such as bowling, roller skating or ice-skating. Entertainment uses may include the preparation and serving of food as an incidental use. Entertainment uses shall not include night clubs and arcades

Estate House. An Edgeyard building type. A single-family dwelling on a very large lot of rural character, often shared by one or more accessory buildings. (Syn: country house, villa)

Expression Line. A line prescribed at a certain level of a building for the major part of the width of a Facade, expressed by a variation in material or by a limited projection such as a molding or balcony. (Syn: transition line.)

Extended Care Facility. One or more residential structures which incorporate health care services for the long term care of the residents, including assisted living, convalescent homes, nursing homes and rehabilitation facilities.

Extension Line. A line prescribed at a certain level of a building for the major part of the width of a Facade, regulating the maximum height for an encroachment by an arcade frontage.

Façade. The exterior wall of a building that is set along a frontage line. See Elevation.

Facade Fenestration. The percentage of the area of windows, doors and other exterior openings to the total facade area.

Façade/Wall Sign. A sign attached to the exterior façade or wall of a building in such a manner that facade or wall is the supporting structure for or forms the background surface of the sign. Such signs shall not project above the edge of the roof or beyond the side walls of a structure.

Farmers' Market. A permanent enclosed building operated year round, or seasonally, where the majority of products consist of perishable foods and prepared foodstuffs grown on local or regional farms or a temporary or occasional outdoor retail sale of farm produce from temporary stands. Farmers' Markets may also include artwork, crafts or durable goods made by local or regional artisans in conjunction with the farm products mentioned above.

Feather Flag. Also known as Swooper Flags, Bowflags or Flutter Flags, these flags are irregular shaped rectangular flags attached horizontally to a flag pole so that the edge of the flag flutters in the wind. Feather flags are typically ground mounted.

Financial Services. Provision of banking services to consumers or clients. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments, and automatic teller machines (ATMs). Where drive-thru services are permitted, the location of drive-thrus shall be regulated in the same manner as parking. Financial services shall not include establishments used solely for currency exchange or check cashing.

First Floor Elevation. A building's vertical measurement from the mean level of the ground abutting the building to the mean level of the first floor of the building.

First Story Clear Height. A building's vertical measurement from the mean level of the first floor of the building to the mean level of the second floor of the building.

Flex Mixed-Use Building. A multi story building that contains ground floor commercial uses, with upper floor residential, retail, office or other commercial uses. These buildings may be attached, semi-attached or detached. They are served by elevators and intended for the highest density areas of the Town.

Food and Beverage Production. The production of food or beverage products from raw goods and/or farm products, such as salsa from vegetables, cheese from milk, jams and pies from fruit, juice from fruits or vegetables, etc. (Syn.: Value Added Food Production).

Form-Based Code. A land use ordinance comprised of a set of cohesive design standard regulations, and development standard regulations incorporating the land use/transect plan, public frontage plan and street regulating plan and intended to implement the goals and objectives of the *Town of Newton Master Plan*.

Frontage. The area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage.

Frontage Line. A Lot line bordering a public frontage. Facades facing frontage Lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

Frontage Percentage. The percentage of the width of a lot that is required to be occupied by the building's primary façade. Syn. Frontage Build-out.

Frontage Type. The type of facade that is permitted on a primary street (front yard).

Front Facade Encroachments. Building components that encroach from the front façade of a building into the public right-of-way or building setback area, including, but not limited to, overhanging eaves, gutters, cornices, steps, bay windows, porches, balconies and balconettes. If the maximum permitted encroachment is greater than the maximum permitted setback, then such building components are permitted to encroach into the public right-of-way.

Front Yard Setback. The required open space located between the front façade of a building and the front lot line, extending along the street line throughout the full width of the lot, and exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes.

Funeral Home or Mortuary. A building or part thereof used for human funeral services. Such building may contain space and facilities for (1) embalming and the performance of other services used in the preparation of the dead for burial; (2) the performance of autopsies and other surgical procedures; (3) the storage of caskets, funeral urns, and other related funeral supplies; (4) the storage of funeral vehicles; and (5) facilities for cremation.

Gallery. A private frontage conventional for retail use wherein the facade is aligned close to the frontage Line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

Gallery (Art). An establishment in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Garage (Private-Detached). An accessory building used for the storage of motor vehicles.

Garage (Public). A building or part thereof which is designed specifically for automobile parking and where there are a number of floors or levels on which parking takes place. Parking structures are to be located internal to a block and not permitted on any street frontages (with the exception of a small frontage type) without liner buildings.

Gasoline Service Station or Filling Station. Any building, structure, or area of land used for the retail sale of automobile fuels, oils and accessories, and where repair service and sale of propane and/or kerosene, if any, is incidental.

Gateway. A point at which a motorist or pedestrian gains a sense of arrival in a particular district, neighborhood or part of a municipality. This impression can be imparted through such things as signs, monuments, landscaping, change in development character, or a natural feature.

GIS (Geographic Information System). A computerized program in widespread municipal use that organizes data on maps.

Government/Civic/Civic/Institutional Building. A building that contains governmental, civic, institutional or religious uses. They are typically significant buildings that may have large setbacks, monumental and unique design characteristics, public art installations and/or public space areas. Examples include courthouses, government administration offices, schools, libraries, museums and places of worship. They do not contain commercial, residential or industrial uses and are typically fully detached.

Greenfield. An area that consists of open or wooded land or farmland that has not been previously developed.

Greenway. An open space corridor in largely natural conditions which may include trails for bicycles and pedestrians.

Green Roof. An engineered, multi-layered roofing system sustaining the growth of plants on a roof while protecting the integrity of the underlying structure. The components of a green roof consist of a waterproofing membrane, root barrier, drainage layer, retention layer, filter fabric, growing medium and plants.

Greywater. Wastewater obtained from domestic sinks and tubs, but excluding that part of the plumbing waste stream that includes human wastes.

Ground Floor Front Facade Fenestration. The ratio of ground floor front window area to ground floor front facade area. Window area may include windows contained in doors.

Hardscape. Inanimate elements of landscaping. Examples include walls, patios, pavers, paths, boulders, stones, decks, and fountains.

Highway. A rural and suburban thoroughfare of high vehicular speed and capacity. This type is allocated to the more rural Transect Zones (T-1, T-2, and T-3).

Home Occupation. An occupation carried on in a dwelling unit or accessory building on the same lot by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof. A Home Occupation involves customers/clients visiting the residence and may include up to two employees provided that the owner of the home occupation resides in the dwelling unit.

Home Office. An occupation carried on in a dwelling unit or accessory building on the same lot by the resident thereof, provided that the use is limited in extent and incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. A Home Office does not involve customer or clients visiting the residence and does include any non-resident employees. A Home Office is permitted in all residential dwelling units and does not require a zoning permit provided that it is not visible from the exterior of the building, there is no signage, employees or customers visiting the site.

Horizontal Facade Banding. The use of horizontal strips that differ from the principal material, color, texture or setback of a facade, as a means of breaking up the apparent height of a building.

Horizontal Facade Break. A horizontal measurement between building face offsets; vertical elements; bay windows; private amenities organized vertically such as terraces, balconies or balconettes; building offsets or recesses changes in façade materials or colors; or combination thereof.

Hospital/Medical Center. An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients, licensed by State law to provide facilities and services in surgery, obstetrics and general medical practice. Such institutions include allied and adjunct medical facilities such as facilities for the education and training of hospital personnel, including but not limited to residents, interns, nurses, technicians and orderlies; medical schools, student residence halls or dormitories, laboratories, research facilities, pharmacies, cafeteria, restaurant or snack bar, gift or flower shop; outpatient treatment and medical offices which may be in the same building or separate buildings provided this does not include non-accessory, nonadjacent or independently operated medical offices, group medical practices or laboratories.

Hotel. A facility offering transient lodging accommodations to the general public and which must include lobbies and concierge services. They may include a restaurant, meeting rooms, entertainment and recreational facilities or banquet halls. Lodging may not be for more than 28 consecutive days and must be computed by the day. Does not include Boarding House or Lodging House. Syn. Lodging.

House. An Edgeyard building type, usually a single-family dwelling on a large Lot, often shared with an Accessory Building in the back yard. (Syn: single.)

House of Worship. A building where persons regularly assemble for religious purposes and related social events and which building is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. Examples include churches, synagogues, mosques and temples.

Industrial Use. A use relating to, concerning, or arising from the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

Infill. *Noun*-New development on land that had been previously developed, including most greyfield and Brownfield sites and cleared land within urbanized areas. *verb*- to develop such areas.

Institutional Use. A nonprofit or quasi-public use, such as a religious institution, library, public, or private school, hospital, or government owned or government-operated structure or land used for public purpose.

Judicial. Of or pertaining to judgment in courts of law or to the administration of justice. Includes courthouses and associated structures and uses.

Junkyard. A lot, land, or structure, or part thereof, used for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, salvaging, or sale of parts or machinery or vehicles not in running condition.

Kiosk. A structure which may be constructed somewhere other than the lot on which it is placed or which is comprised of parts which are constructed elsewhere and assembled on a lot, and which is designed and intended to be used primarily for retail sale, display and accessory advertising of food and merchandise.

Laboratory. A facility for scientific laboratory analysis of natural resources, medical and dental resources, and manufactured materials. The scientific analysis is generally performed for an outside customer, to support the work of that customer. This category includes environmental laboratories for the analysis of air, water, and soil; medical or dental laboratories for the analysis of blood, tissue, or other human medical or dental products.

Law Enforcement. The activity of entities empowered by the State, Town, or County, which are vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the criminal or traffic laws of the Town and State.

Library. A public, nonprofit facility in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

Light Industry. Research and development activities, the manufacturing, compounding, processing, packaging, storage, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, which activities are conducted wholly within an enclosed building (light manufacturing). Finished or semi-finished products may be temporarily stored outdoors for a maximum of 48 hours pending shipment.

Liner Building. A single or multi story building devoted to commercial or residential uses. Their purpose is to “line” the exteriors of large structures such as parking garages, movie theaters or supermarkets. This allows large, blank façades to be screened by pedestrian scaled uses. The building may be attached or integrated into the larger structure, or sit in front of it, with separations dictated by building codes. Individual unit access is to be provided from the primary street frontage. Secondary access may be provided from the building that is being “lined”.

Live/Work Building. A hybrid commercial/residential building that may be new construction or a conversion of an existing home into a combination ground-floor business and upper-floor single-family dwelling unit.

Living Fence. Hedges, trees, or other living landscaping that forms a border between two spaces.

Lodging. Facilities providing overnight accommodations for transient guests either in a hotel or bed and breakfast format.

Lot. A designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

Lot Coverage. All impervious coverage (as defined in Chapter 240) on a lot.(syn. Lot Occupation).

Lot Depth. The horizontal distance between the front and rear lot lines measured along the median between the two side lot lines.

Lot Layers. Lot layers divide lots into three sections for purposes of locating parking on a site. The first layer is in the front yard, the second layer is 20 feet beyond the front yard, and the third layer is remainder of the lot to the rear lot line.

Lot Size or Lot Area. The total square unit contents included within lot lines.

Lot Width. The horizontal distance between the side lot lines measured at right angles to the lot depth at the building line.

Main Civic Space. The primary outdoor gathering place for a community. The Main Civic Space is often, but not always, associated with an important Civic Building.

Manufacturing. Premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their retail sale.

Marquee Sign. A sign attached to a marquee for the purpose of identifying a theater or movie house. Such signs shall not project above the edge of the roof.

Massage Parlor. An establishment, business or use which provides the service of massage and body manipulations, including exercise, heat and light treatments of the body and all forms and methods of physical therapy unless operated by a medical practitioner or professional physical therapist or certified massage practitioner.

Massing. The manner in which a building's height, depth, and width are proportionate to the width of the street on which it is located.

Menu Board Sign. A permanently mounted wall sign used to inform the public of the list of entrees, dishes, foods and entertainment available in a restaurant, cafe, luncheonette, delicatessen or similar establishment. Such signs shall be located in a permanently mounted display box on the façade of the building adjacent to the entrance, displayed within a window adjacent to the entrance, or at a podium that will be placed inside the restaurant upon closing.

Mid-Block Connection. A public space within a lot that may be open or enclosed and which is designed and/or intended to be used by the public to pass between a public right-of-way and a parking lot located within the interior of a block or to the rear of a building. Mid block connections shall have a minimum pedestrian walkway width of four (4) feet and be lined with landscaping where possible.

Mixed-Use. Multiple Functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a proximity determined by Warrant.

Mixed-Use Building. A building that includes more than one use; typically having different uses on the first floor and the upper floors of the building. A common example is ground story commercial with offices or residences on upper floors.

Motor Vehicle Sales. Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, or motorcycles or other similar motorized transportation vehicles. Such an establishment may maintain an inventory of the vehicles for sale or lease either on-site or at a nearby location and may provide on-site facilities for the repair and service of the vehicles sold or leased by the establishment.

Motor Vehicle Service and Repair. The repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire service and sales, washing, or installation of CB radios, car alarms or stereo equipment.

Museum/Gallery. A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an incidental use the sale of goods to the public as gifts or for their own use.

Net Site Area. All developable land within a site including Thoroughfares but excluding land allocated as Civic Zones.

Office. A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

Office/Commercial Building. A single or multi story building devoted solely to commercial uses. They may be designed as walkups or elevator buildings depending on the number of floors. Common entrances and other spaces may be shared. Primary access is to be provided from the primary street frontage. Additional access is permitted from courtyards or internal corridors. Parking is permitted inside the ground floor of the building but may not abut the primary street frontage. Side yard parking equal to one row of parking plus drive aisle is permitted to a maximum of 45 feet.

Offset. A change in elevation or primary façade plane with a difference of at least 3 feet.

Open Space. Land intended to remain undeveloped; it may be for Civic Space.

Outbuilding. An accessory building, usually located toward the rear of the same lot as a principal building, and sometimes connected to the principal building by a breezeway. .

Park. A noncommercial, not-for profit facility designed to serve the recreation needs of the residents of the community. Such facilities include neighborhood parks, community parks, regional parks, and special use facilities, all as described in the recreation and open space element of the Town Master Plan. Such facilities may also include but shall not be limited to school and religious institution ball fields, football fields, and soccer fields, if they meet the above definition. Commercial recreation or amusement facilities shall not be considered parks. Or any area that is predominately open space, used principally for active or passive recreation, and not used for a profit-making purpose.

Parking Bay. Paved area used to accommodate either one (1) or two (2) rows of parking stalls plus one access lane.

Parking Structure. A building containing one or more stories of parking above grade.

Pawn Shop. An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

Personal Services. Specialized goods and services purchased frequently by the consumer. Included are barbershops, beauty shops, massage facilities, chiropractic clinics, garment repair, laundry cleaning, pressing, dyeing, tailoring, shoe repair, and other similar establishments.

Pharmacy. An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

Planter. A decorative, above ground container located within a public right-of-way and used for the planting of trees, shrubs and plants. When required by this *Form Based Code* as a sidewalk area element, planters shall have a minimum volume of 25 cubic feet. Planters shall maintain a minimum pedestrian clear space width of four (4) feet along a public sidewalk.

Planting Strip. A portion of public right-of-way located between the curb and sidewalk which is dedicated to the planting of trees and low ground cover.

Plaza, Square or Piazza. Public spaces located within the Town and its neighborhoods, which may contain one or more civic building(s) or space located within a primarily unpaved, formally configured area which may contain a small public lawn or park. Portions may be linear in shape though a square,

rectangle, circle or other usable shape, as appropriate, shall be the primary focus of the area. Spaces shall be surrounded by canopy street trees. These sites shall be situated at prominent locations and are often dedicated to important events and/or citizens. Spaces may contain water features, an amphitheater, farmers market, and in some appropriate instances, such as in conjunction with residential neighborhoods, may include limited play equipment and court.

Portable Sign. A sign that is not permanently affixed to a structure or the ground. Also known as A-Frame or Sandwich-Board signs. These signs are constructed with two faces which rest at an angle less than 45 degrees to each other. Such signs are only permitted for retail stores, restaurants, cafés, luncheonettes, delicatessens and similar establishments. Such signs must be located upon the same lot as it services. The sign shall not obstruct pedestrian or vehicular flow.

Portico. A covered walk or porch that is supported by columns or pillars; also known as colonnade.

Principal Building. The main building on a lot, usually located toward the frontage.

Principal Entrance. The main point of access for pedestrians into a building.

Principal Frontage. On corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See frontage. See also Building Configuration and Height Tables associated with each Transect Zone for visual descriptions of lot layers.

Principal Store Frontage. Any building face that includes a public/customer entrance (not emergency, service or employee entrances) to the store or establishment to which a sign is related.

Private Frontage. The privately held layer between the frontage line and the principal building facade.

Private Setback. The space between the facade of a building and a public right-of-way. Such space may be regulated for passive use landscape or active use hardscape/paving. See also front yard setback and side yard setback.

Professional Occupation. The office of a physician, surgeon, dentist, minister, architect, engineer, attorney, optometrist, accountant, veterinarian, or similar professional person when located within his/her dwelling or in an accessory building on the same lot provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Professional or Tenant Identification Sign. An exterior wall sign that serves as a common or collective identification for two or more businesses or tenants in the same building, displaying the name of each tenant.

Projecting, Blade, or Hanging Sign. A sign attached to and projecting out from the exterior facade or wall of a building at a 90 degree angle in such a manner that it is located completely in the public right-of-way, partially in the right-of-way or completely on private property. Internal illumination of a projecting sign is prohibited.

Public Building. Any building held, used, or controlled exclusively for public purposes by any department or branch of government, State, County, or municipal, without reference to the ownership

of the building or of the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business.

Public Dance Hall. A place of assembly, open to the public and operated for profit, where dances, parties, receptions, and other gatherings are held. Dance halls may provide live entertainment, may serve alcoholic beverages, and may serve catered meals provided the owner or operator holds the appropriate licenses and permits.

Public Frontage. The area between the curb of the vehicular lanes and the frontage Line.

Public Frontage Type. See frontage type.

Public Space. Property (streets, alleys, civic greens and parks) within the public domain and physically within a municipality or neighborhood within which citizens may exercise their rights. At its most ideal level, public space and public buildings can be characterized as being of, for and by the people.

Public Spaces Plan. Both a master plan element and a land use ordinance that regulates location and general design of public spaces.

Public Works. Any improvement facility or service, together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

Quick Response Code (QR) Sign. A sign that contains a specific matrix barcode (or two-dimensional code) that is readable by dedicated QR or Tag barcode readers and camera telephones. The code consists of black modules arranged in a square pattern on a white background or colored design. The information encoded may be text, URL, or other data. Syn. Tag Bar Code.

Rail Station. A facility, either light or heavy rail, for the boarding of passengers and related ticketing sales and offices.

Rain Garden. A planted depression that is designated to take as much as possible of the excess rainwater run-off from a house or other building and its associated landscape.

Real Estate Sign. A temporary sign that relates to the sale, lease, or rental of property or buildings, or to construction activities on a site.

Rear Alley. A vehicular street or driveway located to the rear of lots providing access to service areas and parking, and containing utility easements. Alleys should be paved from building face to building face, with drainage by inverted crown at the center or with curbs at the edges.

Rear Lane (RI). A vehicular street or driveway located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear lanes may be paved lightly to driveway standards. The streetscape consists of gravel or landscaped edges, has no raised curb, and is drained by percolation.

Rear Yard Setback. The required open space extending along the rear line of a lot from side yard to side yard of a building, exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes. A rear yard setback is not applicable to a yard that fronts on a public street, except for yards having a small frontage type.

Rearyard Building. A building that occupies the full frontage line, leaving the rear of the lot as the sole yard. (Var: rowhouse, townhouse, apartment house)

Recess. A change in the building facade plane that sits at least 3 feet back from the beginning of the primary building setback.

Recess Line. A line prescribed for the full width of a facade, above which there is a stepback of a minimum distance, such that the height to this line (not the overall building height) effectively defines the enclosure of the enfronting public space. Var: Extension Line

Recreation. The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as, but not limited to boating, fishing, and swimming, or may be passive, such as, but not limited to, enjoying nature or its wildlife.

Recreational Facility. An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual or organized activities, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized events, health and fitness club facilities, swimming pool, snack bar and other support facilities.

Regulating Plan. A Zoning Map or set of maps that shows the Transect Zones, Civic Zones, Special Districts if any, and special requirements if any, of areas subject to, or potentially subject to, regulation by the Form-Based Code.

Research and Development. Investigative activities conducted by a business with the intention of making a discovery that can either lead to the development of new products or procedures, or to the improvement of existing products or procedures.

Residential. Characterizing premises available for long-term human dwelling.

Residential Elevator Flat. A residential building containing two (2) or more dwelling units attached at one or more common roofs, walls or floors. Typically, the unit's habitable area is provided on a single level with entrances provided from a common corridor. Common lobby elevators are required when more than one story above grade is provided. Flats or lofts may be contained in a residential building or may be residential flats or lofts over first floor commercial uses.

Restaurant. An establishment where food and drink are prepared, served, and primarily consumed within the principal building or structure. Restaurants may be full service/sit down, carry out or fast food. Where drive-thru services are permitted, location of drive-thrus shall be regulated in the same manner as parking.

Retail. Characterizing premises available for the sale of merchandise and food service.

Retail Frontage. Frontage designated on a regulating plan that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use. See special requirements.

Retail Sales. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, which render services incidental to the sale of such goods, and are engaged in activity designed to attract the general public to purchase such goods or merchandise.

Pharmacies are permitted to have drive-thru services. The location of drive-thrus shall be regulated in the same manner as parking.

Retail Services. Establishments providing services, as opposed to products, to the general public, including financial services, insurance, real estate, personal services, fitness centers or studios, galleries and similar uses.

Right-Of-Way Width. A horizontal measurement taken perpendicularly from one side of a public right-of-way to the other.

Road (Rd). A local, rural and suburban thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural Transect Zones (T1-T3).

Roofline Offset. A horizontal measurement between offsets in portions of a roofline, as a means of breaking up the apparent bulk of the continuous roofline of a building or group of attached buildings. Such offsets consist of elements such as dormers and gables.

Rowhouse. A single-family dwelling that shares a party wall with another of the same type and occupies the full Frontage Line. See rearward building. (Syn: Townhouse)

Rural Boundary Line. The extent of potential urban growth as determined by existing geographical determinants. The rural boundary line is permanent.

School. An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

Secondary Frontage. On corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first layer is regulated.

Self-Storage Facility or Mini-Warehouse Facility. A building or group of buildings divided into separate compartments used to meet the temporary storage needs of customers and may include refrigerated facilities.

Setback. The area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures, with the exception of permitted encroachments. (Var: build-to-line.)

Shared Parking. Joint utilization of a parking area for more than one use, either on-site or between nearby properties through a dedicated arrangement, in order to fulfill their individual parking requirements because their prime operational hours do not overlap.

Shared Parking Factor. An accounting for parking spaces that are available to more than one Function.

Shopfront A private frontage conventional for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. See Section 320-27.A.

Sidewalk. The paved section of the public frontage dedicated exclusively to pedestrian activity.

Sidewalk Cafe. Any eating establishment where food and other refreshments are served upon the public right-of-way, namely the sidewalks immediately in front of any restaurant, cafe, cafeteria or place of business where food and/or other refreshments are served, or where permitted on private property. Sidewalk cafés shall maintain a minimum pedestrian clear space width of four (4) feet along a public sidewalk. Sidewalk Cafe's are permitted between March 1st and December 1st.

Sideyard Building. A building that occupies one side of the lot with a setback on the other side. This type can be a single or twin depending on whether it abuts the neighboring house. See *Section 320-26.B*.

Side Façade Fenestration. The ratio of side window area to side façade area. Window area may include windows contained in doors.

Side Facade Window Setback. A horizontal measurement between all windows located on the side façade of a building to the shared side lot line. This setback is to be measured perpendicularly from the shared side lot line.

Side Yard Setback. The required open space extending along the side line of a lot from the front yard to the rear yard of a building, exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes. A side yard setback is not applicable to a yard that fronts on a public street, except for yards having a small frontage type.

Single-Family Dwelling. A detached single family unit on its own individual lot designed for or used exclusively by one family.

Solar Screen. A device attached to a building to provide shading for glazed areas thereof.

Special Care Facility. Includes assisted living facilities, convalescent care, nursing homes, extended care facilities and life care facilities.

Special District (SD). An area that, by its intrinsic function, disposition, or configuration, cannot or should not conform to one or more of the normative community unit types or transect zones specified by the SmartCode. Special districts may be mapped and regulated at the regional scale or the community scale.

Special Flood Hazard Area. A designation by the Federal Emergency Management Agency (FEMA) that may include the V (Velocity) Zones and Coastal A Zones where building construction is forbidden, restricted, or contingent upon raising to the Base Flood Elevation.

Specialized Building. A building that is not subject to residential, commercial, or lodging classification.

Square. A civic space type designed for unstructured recreation and civic purposes, spatially defined by building frontages and consisting of paths, lawns and trees, formally disposed. See *Section 320-26.C*.

State. The State of New Jersey.

Stepback. A building setback of a specified distance that occurs at a prescribed number of stories above the ground. .

Stoop. A private frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance.

Storage Shed. A subordinate structure or building used primarily for storage purposes.

Storefront. A ground floor façade with a large display window.

Storefront Width. The horizontal extent of the storefront of an individual business or establishment as measured parallel to the public right-of-way upon which it fronts.

Story. A habitable level within a building, excluding an attic or raised basement.

Streetscreen. A freestanding wall built along the frontage line, or coplanar with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

Streetscape. Design elements in the public right-of-way, primarily located in the pedestrian area including street furniture, sidewalks, tree pits, grass verges, landscaping, lighting, and signage.

Street Frontage. The horizontal distance between side lot lines measured along the public right-of-way upon which the lot fronts.

Street Furniture. Functional elements of the streetscape, including but not limited to benches, trash receptacles, planters, telephone booths, bus shelters, kiosks, sign posts, street lights and bollards.

Street Regulating Plan. Both a master plan element and a land use ordinance that regulates location and general design of public streets and public spaces

Street Vendors. Any person or persons, including corporations, who engage in the activity of vending.

Surface Parking Lot. An off-street, surfaced, ground level open area, for the temporary storage of motor vehicles.

Swale. A low or slightly depressed natural area for drainage.

TND. Traditional Neighborhood Development, a community unit type structured by a standard pedestrian shed oriented toward a common destination consisting of a mixed use center or corridor, and in the form of a medium-sized settlement near a transportation route. (Syn: village. Variant: Infill TND, neighborhood.)

T-Zone. Transect Zone.

Tattoo Parlor. An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Tavern or Bar. An establishment whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Incidental uses may include food service and take-out sales of alcohol.

Temporary Sign. A sign not intended or designed for permanent display, used by mechanics, craftsmen and builders on-site, or for religious, charitable or political purposes.

Temporary Use. A use that is established for a fixed short-term period of time with the intent to discontinue such use upon the expiration of such time and that does not involve any permanent improvements on a property. Temporary uses include temporary outdoor display and sales of merchandise such as a seasonal market or Christmas tree lot; a carnival or fair held by a non-profit entity; a grand opening event; parking lot sale; or other similar promotional event. Outdoor displays permitted under the ordinance are not considered to be temporary uses under the ordinance.

Thoroughfare. A way for use by vehicular and pedestrian traffic and to provide access to Lots and open spaces, consisting of vehicular lanes and the public frontage.

Theater. A structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received. Adult motion picture theaters or establishments featuring burlesque are prohibited.

Town. Town of Newton in the County of Sussex in the State of New Jersey

Townhouse. See townhouse building or rearyard building. (Syn: Rowhouse)

Townhouse Building. A one-family dwelling unit with a private entrance, attached horizontally with other dwelling units in a linear arrangement. They are located on individual lots and are separated from other dwelling units by an approved wall, extending from the foundation through the roof that is structurally independent of the corresponding wall of the adjoining unit. They have a totally exposed front and rear wall to be used for access, light and ventilation. A variation of the townhouse is the stacked townhouse, with two, similarly sized one-family dwelling units integrated into the footprint of a Townhouse.

Transect Zone (T-Zone). One of several areas on the zoning map regulated by this code. Transect Zones are administratively similar to the land use zones in conventional codes, except that in addition to the usual building use, density, height, and setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and public frontage.

Transparency. The degree, measured as a percentage of the overall façade space, to which a façade has clear, transparent windows on each story.

Turning Radius. The curved edge of a thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the turning radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.

Twin Building. A one-family dwelling unit with a private entrance, attached horizontally with one other dwelling unit in a linear arrangement. They are located on individual lots and are separating from the other dwelling unit by an approved wall, extending from the foundation through the roof that is structurally independent of the corresponding wall of the adjoining unit. They have a totally exposed front, rear and side wall to be used for access, light and ventilation. (syn. Duplex).

Upper Floor Front Façade Fenestration. The ratio of upper floor front window area to upper floor front façade area. Window area may include windows contained in doors providing access to terraces, balconies or balconettes.

Urbanism. Collective term for the condition of a compact, mixed use settlement, including the physical form of its development and its environmental, functional, economic, and sociocultural aspects.

Urbanized. Generally, developed. Specific to the SmartCode, developed at T-3 (Sub-Urban) density or higher.

Utility. All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

Vertical Façade Break. A vertical measurement between horizontal elements such as horizontal facade banding; private amenities oriented horizontally such as terraces, balconies, balconettes and porches; changes in façade materials or colors; overhanging eaves; or combination thereof. Outdoor terraces, balconies and porches shall have a minimum depth of four (4) feet and outdoor balconettes shall have a maximum depth of two (2) feet.

Veterinarian Service. An establishment that provides animals with medical and surgical treatment, as well as care during the time of such treatment.

Warehouse or Storage. A facility engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but not involved in manufacturing or production. Excludes bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

Warehouse/Loft Building. A former industrial building, typically characterized by multiple stories, high ceilings, large floor plates and wide load bearing columns. Adaptive reuses include residential, retail, office, artisan studios/galleries and live/work. New construction with similar architectural features may be included in this definition.

Window Sign. A sign that is applied or attached to the interior of a window or located in such a manner within a building that it can be seen from the exterior of the building through a window. Such signs shall be limited to individual letters placed on the interior surface of the window and intended to be viewed from outside. Glass-mounted graphic logos may be applied by silk screening or pre-spaced vinyl die-cut forms.

Window-To-Eave Offset. A vertical measurement from the highest point of a façade window to the lowest point of an overhanging eave or other façade protrusion such as a balcony or balconette.

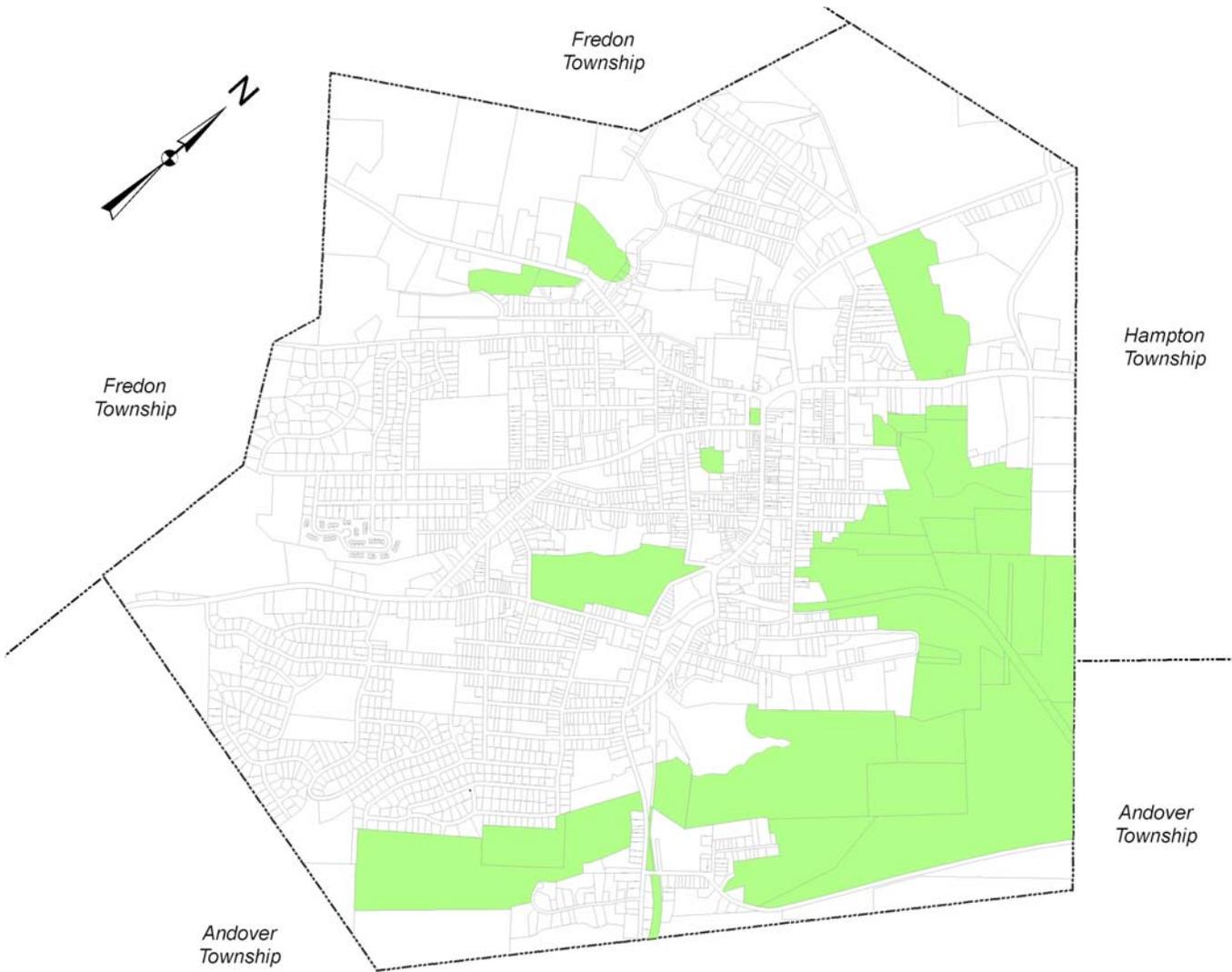
Wireless Telecommunication Tower. A tower, pole, or similar structure that supports a wireless telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures.

Zoning Map. the map or maps that are part of the zoning ordinance and delineate the boundaries of individual zones and districts. See Regulating Plan.

Section 320-4 General Provisions

- 320-4.A Conformity to District Regulations. Except as previously or hereinafter provided, no person shall locate, relocate, erect, construct, reconstruct, enlarge, or structurally alter any building or structure or use of land or building for any purpose, except in conformance with the regulations of the district in which such building or structure is located.
- 320-4.B Pending Application for Construction Permits. Nothing in this Chapter shall require any change in plans, construction, size or designated use of any building, structure or part thereof for which any construction permit has been granted before the enactment of this Chapter; provided that construction from such plan shall have been started within 60 days after enactment of this Chapter and shall be diligently pursued to completion.
- 320-4.C Accessory Buildings.
- (1) An accessory building attached to the main building shall comply in all respects with the requirements of this Chapter applicable to the main building.
 - (2) Height/coverage limits. Accessory buildings in residential districts shall not be located in any required front yard, and may not occupy more than 30% of a required rear yard.
 - (3) Building separation. In residential districts, the minimum distance of any accessory building from an adjacent building shall be five feet. An accessory building may be permitted to straddle a side or rear lot line for service to two residences by common consent as contained in a recorded legal instrument between adjoining property owners.
- 320-4.D Exceptions and Supplemental Regulations to Bulk and Area Requirements.
- (1) Corner lots. Front yards shall be measured to the street line including both streets on a corner lot.
 - (2) Permitted Encroachments into Setbacks. Building elements which are permitted encroachments include overhangs, steps, porches, breezeways, terraces, balconies, bay and box windows, decks, fireplaces or chimneys, and heating or air conditioning units provided that no encroachment is more than half the total distance of the required setback.
 - (3) Height exceptions. The height limitations of this Chapter shall not apply to chimneys, church spires, standpipes, gables, cupolas, flag poles, monuments, television antenna or towers, cables, scenery lofts, or water tanks, elevator housings, and similar structures and necessary mechanical appurtenances for the zone in which the building is located; provided that no such exceptions shall cover at any level more than 10% of the area of the roof on which it is located.
 - (4) Obstruction to vision at street intersections. In any district on any corner lot, no fence, sign or structure, planting, other obstruction to vision higher than three feet above the existing street grade at center line shall be erected or maintained within a triangle formed by the point of the street intersection and points in each of the intersecting lines 25 feet from the intersection.

Section 320-5 T1 - Natural Zone



320-5.A

T-1 PURPOSE

The T-1 Transect Zone covers lands approximating or reverting to a wilderness condition. These lands are to be kept in a natural state and, when possible, preserved as public open space.

- (1) This zone includes lands that are unsuitable for development due to steep slopes, wetlands, or stream buffers.
- (2) Development is limited to open space/parks.
- (3) The T-1 zone consists primarily of lands already owned by the Town of Newton or other public entities.

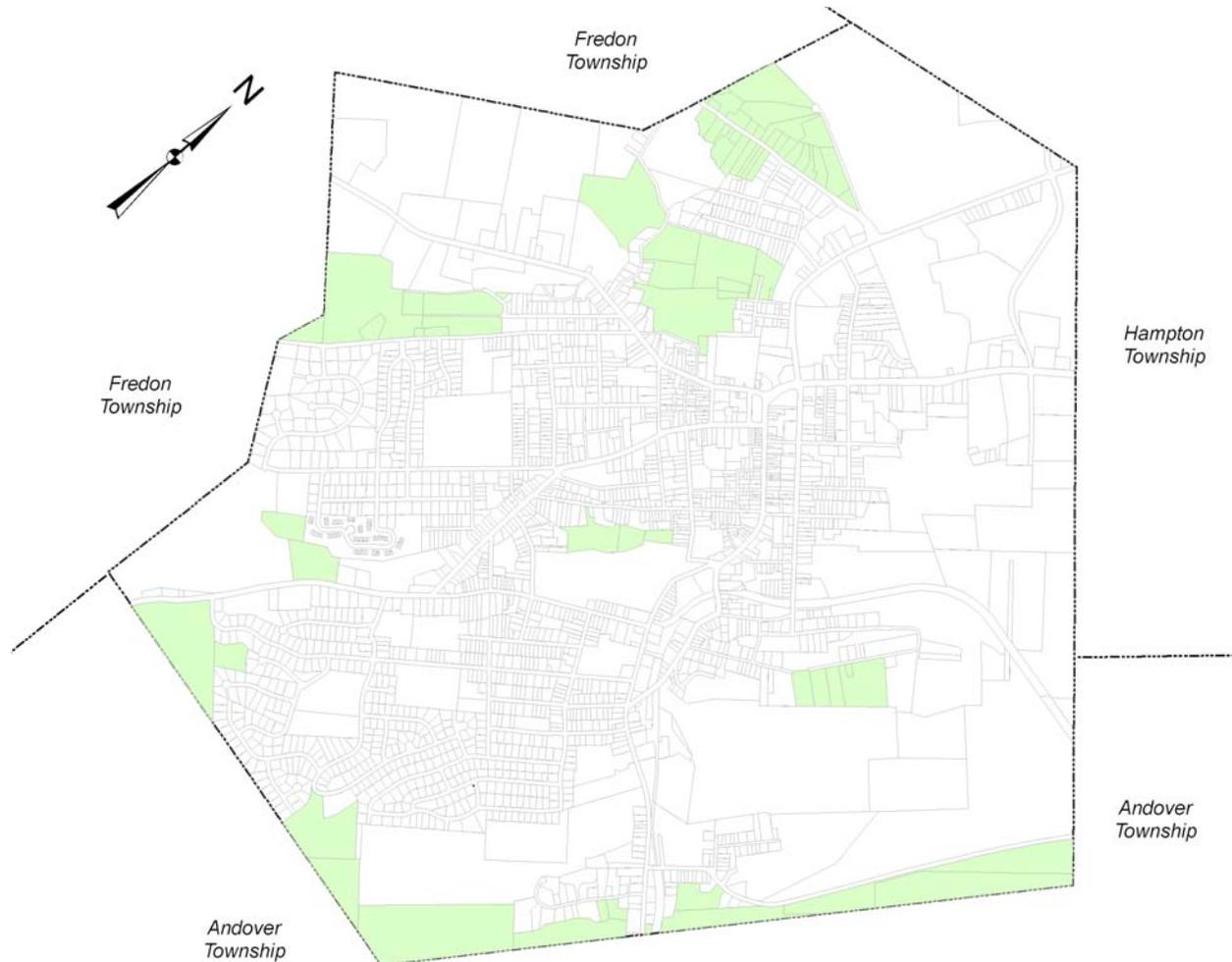


320-5.B

T-1 BULK REQUIREMENTS

Base Residential Density	By Right	Not Applicable
Civic Spaces (320-26.3)	Park	Permitted
	Green	Not Permitted
	Square	Not Permitted
	Plaza	Not Permitted
	Playground	Permitted
Lot Occupation	Lot Width	Not Applicable
	Lot Coverage	Not Applicable
Setbacks - Principal Building	Front Setback (Principal)	Not Applicable
	Front Setback (Secondary)	Not Applicable
	Side Setback	Not Applicable
	Rear Setback	Not Applicable
	Frontage Build-out	Not Applicable
Setbacks - Accessory Building	Front Setback	Not Applicable
	Side Setback	Not Applicable
	Rear Setback	Not Applicable
Building Disposition (320-26.2)	Edgeward	Not Applicable
	Sideward	Not Applicable
	Reaward	Not Applicable
	Courtyard	Not Applicable
Private Frontages (320-26.1)	Common Yard	Not Applicable
	Porch and Fence	Not Applicable
	Terrace or Dooryard	Not Applicable
	Forecourt	Not Applicable
	Stoop	Not Applicable
	Shopfront and Awning	Not Applicable
	Gallery	Not Applicable
	Arcade	Not Applicable
Building Configuration	Principal Building	Not Applicable
	Outbuilding	Not Applicable

Section 320-6 T2 – Rural Residential Zone



320-6.A

T-2 PURPOSE

The T-2 Transect Zone covers a small portion of the single family residential areas located on the fringe of the neighborhood residential areas. These areas may have environmental constraints and are proposed for low density and cluster residential to preserve open space.

- (1) The Public Frontage shall include native trees of various species, naturally clustered, as well as understory.
- (2) Zone consists of sparsely settled land in open or cultivated states, woodlands and agriculture dominate.
- (3) Minimum lot size 1.0 acre unless clustering which allows 0.25 acre lot size with minimum 40% open space set aside and 10% density bonus as a conditional use. Density is based on gross acreage less critical environmental areas divided by one acre (1.0).
- (4) Pre-existing lots 0.25 to 0.99 acres in size may be developed with one single family residential unit provided T-2 setbacks can be met.
- (5) Allowed building types: Single Family Residential.

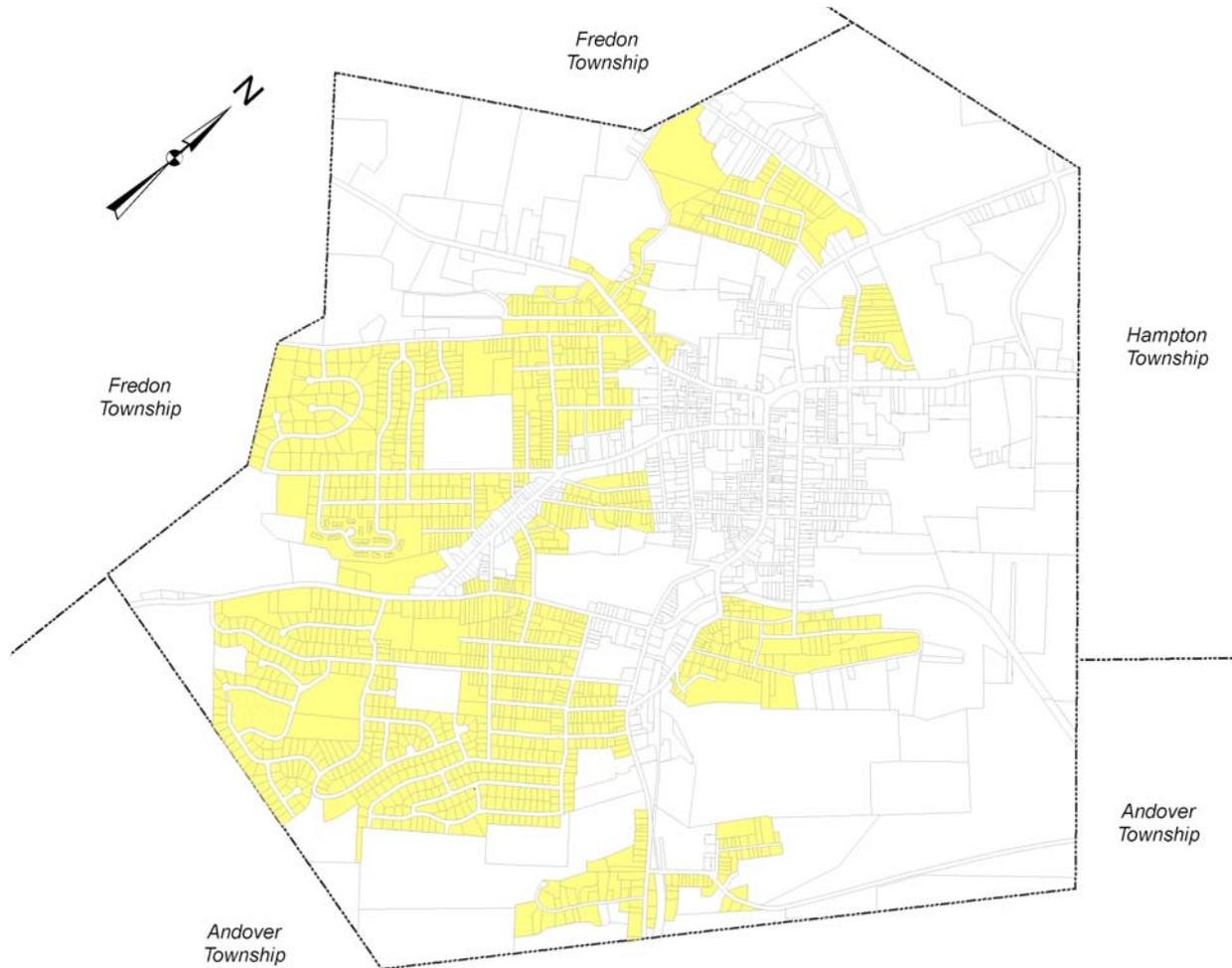


320-6.B

T-2 BULK REQUIREMENTS

Base Residential Density	By Right	1 Unit/ 1.0 Ac. Average
Civic Spaces (320-26.3)	Park	Permitted
	Green	Not Permitted
	Square	Not Permitted
	Plaza	Not Permitted
	Playground	Permitted
Lot Occupation	Lot Width	75 feet (1.0 acre lot) 50 feet (clustering)
	Lot Coverage	Not Applicable
Setbacks - Principal Building	Front Setback (Principal)	40 ft Min.
	Front Setback (Secondary)	40 ft Min.
	Side Setback	20 ft Min.
	Rear Setback	20 ft Min.
	Frontage Build-out	Not Applicable
Setbacks - Accessory Building	Front Setback	20 ft Min. + Principal Bldg. Setback
	Side Setback	10 ft Min.
	Rear Setback	10 ft Min.
Building Disposition (320-26-2)	Edgeyard	Permitted
	Sideyard	Not Permitted
	Rearyard	Not Permitted
	Courtyard	Not Permitted
Private Frontages (320-26.1)	Common Yard	Permitted
	Porch and Fence	Permitted
	Terrace or Dooryard	Permitted
	Forecourt	Not Permitted
	Stoop	Not Permitted
	Shopfront and Awning	Not Permitted
	Gallery	Not Permitted
	Arcade	Not Permitted
Building Configuration	Principal Building	2 Stories/35 ft Max.
	Outbuilding	2 Stories/25 ft Max.

Section 320-7 T3 – Neighborhood Residential Zone



320-7.A

T-3 PURPOSE

The T-3 Transect Zone covers the majority of the single family residential areas that span out from the downtown and neighborhood center areas. Minimum lot size is 9,000 square feet and minimum lot width is 72 feet.

- (1) Parking shall be located at the second and third lot layers, except where the shape or size of the lot do not permit access to parking in the second and third lot layers as required in Section 320-7.C. In that case, parking may be permitted in the first lot layer at the discretion of the Planning Board.
- (2) The Public Frontage shall include native trees of various species, naturalistically clustered, as well as understory.
- (3) Allowed building types: Single Family Residential, Duplex.



320-7.B

T-3 BULK REQUIREMENTS

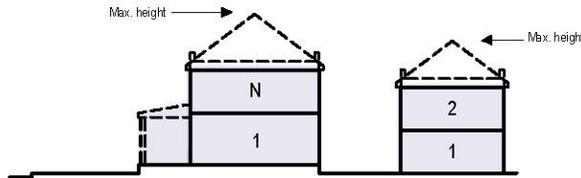
Base Residential Density	By Right	4.84 units/acre (9,000 s.f. lot min.)
Building Configuration	Principal Building	2 Stories/35 ft Max.
	Accessory Building	2 Stories/25 ft Max.
Lot Occupation	Lot Width	72 ft Min
	Lot Coverage	60% Max
Building Disposition (320-26-2)	Edgeyard	Permitted
	Sideyard	Not Permitted
	Rearyard	Not Permitted
	Courtyard	Not Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	35 ft Min.
	Front Yard Secondary (g.2) for corner lot	35 ft Min.
	Side Yard (g.3)	12 ft Min.
	Rear Yard (g.4)	30 ft Min.
	Frontage Buildout	40% Min at Setback
Accessory Building Setbacks	Front (h.1)	20 ft Min.+ Principal Bldg. Setback
	Side Yard (h.2)	7 ft Min.
	Rear Yard (h.3)	7 ft Min.
Private Frontages (320-26.1)	Common Lawn	Permitted
	Porch and Fence	Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Stoop	Permitted
	Shopfront and Awning	Not Permitted
	Gallery	Not Permitted
	Arcade	Not Permitted
Civic Spaces (320-26.3)	Park	Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Not Permitted
	Playground	Permitted

320-7.C

T-3 Building Configuration and Height

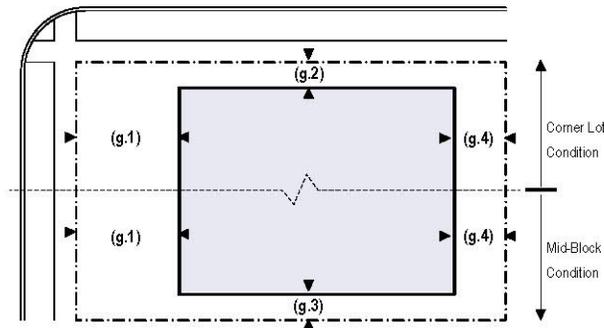
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



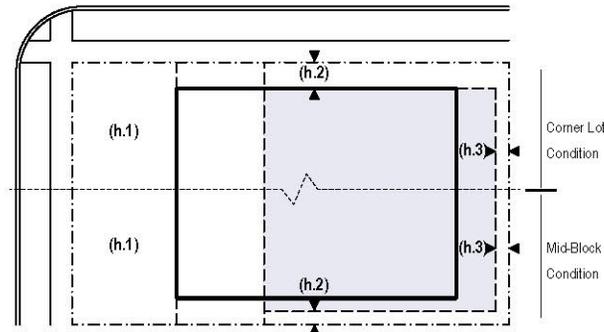
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



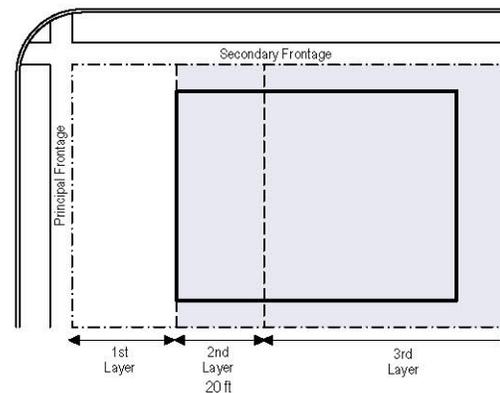
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

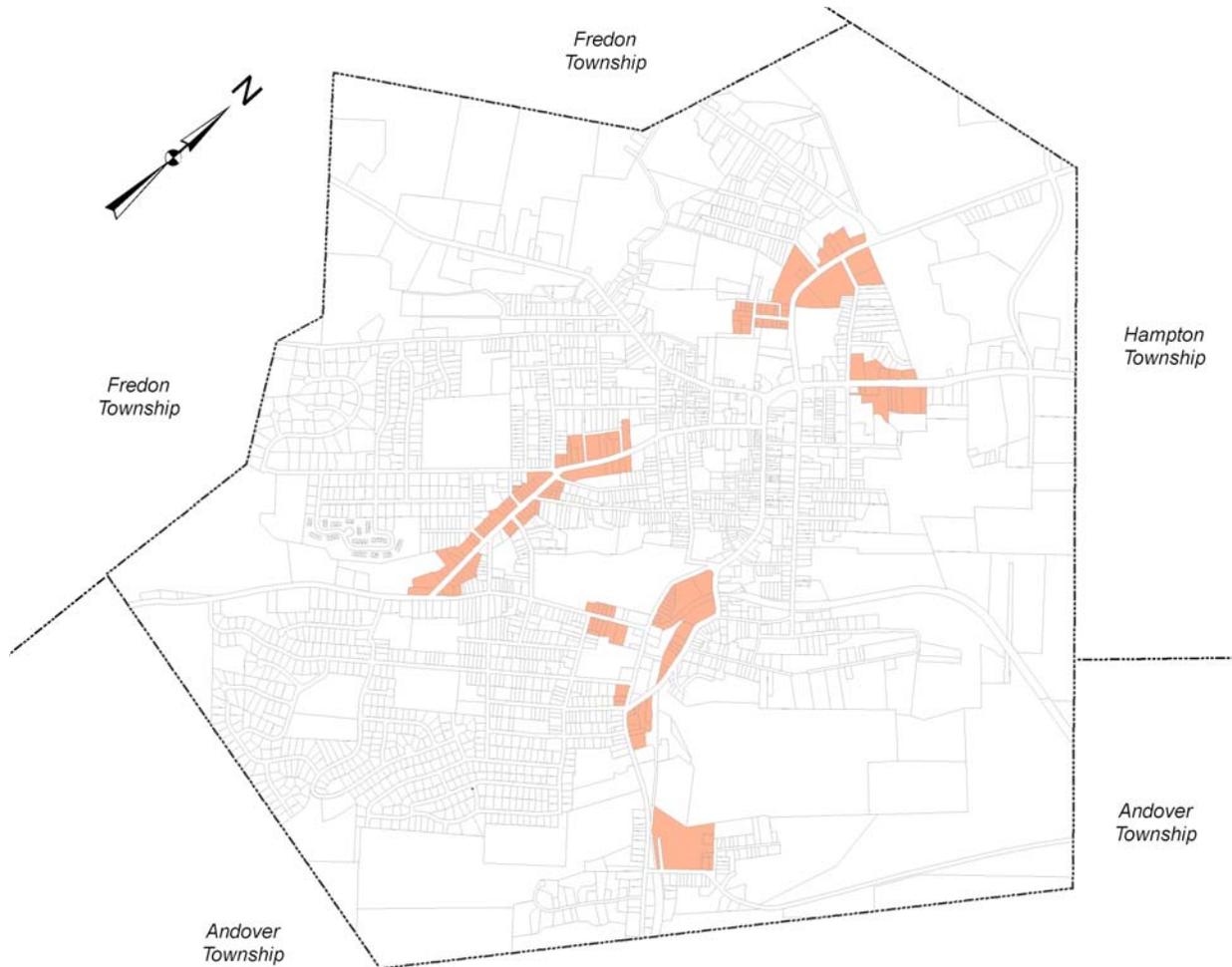


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the second and third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-8 T4 – Neighborhood Services Zone



320-8.A

T-4 PURPOSE

The T-4 Transect Zone covers smaller mixed-use neighborhood centers and supports larger neighborhood centers that provide local services to neighborhoods. These small neighborhood mixed-use commercial areas provide a sense of place and identity to the neighborhood which surrounds it.

- (1) The Public Frontage shall include native trees of various species, naturally clustered, as well as understory. Street furniture should be incorporated into the semi-public edge on commercial and mixed-use buildings.
- (2) Allowed building types: Townhouse, Research/Warehouse, Parking Garage/Garage with Liner, Mixed-Use, Office, Live/Work, Civic, Single Family Residential, Duplex and Triplex.
- (3) For residential uses, parking may be permitted in the first lot layer at the discretion of the Planning Board, where the size and shape of the lot do not permit parking in the second and third lot layer as required in Section 320-8.C.

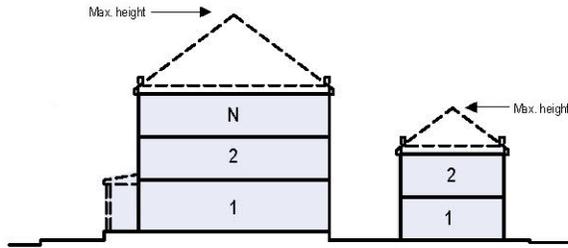
T-4 BULK REQUIREMENTS

Lot Size	Residential	9,000 square foot min.
Building Configuration	Principal Building	4 Stories/50 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	18 ft Min
	Lot Coverage	70% Max
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Not Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	6 ft Min, 18 ft Max
	Front Yard Secondary (g.2) for corner lot	6 ft Min, 18 ft Max
	Side Yard (g.3)	0 ft Min
	Rear Yard (g.4)	3 ft Min.
	Frontage Build-out	60% Min at Setback
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Principal Bldg. Setback
	Side Yard (h.2)	5 ft Min. or 10 ft for a corner lot
	Rear Yard (h.3)	5 ft Min.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Not Permitted
Civic Spaces (320-26.3)	Park	Not Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

T-4 Building Configuration and Height

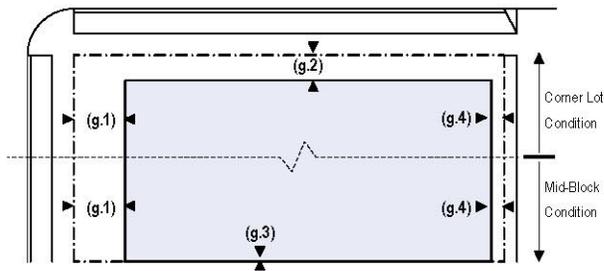
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



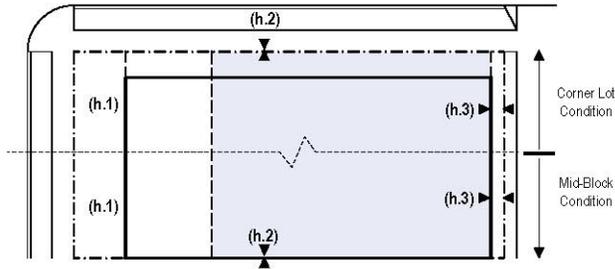
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



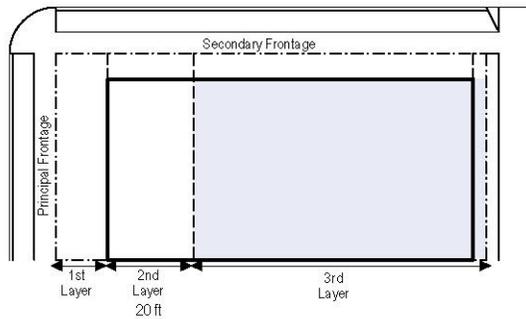
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-9 T5 – Neighborhood Core Zone



320-9.A

T-5 PURPOSE

The T-5 Transect Zone covers the area surrounding the Town Core that provides the majority of the housing and employment that directly supports the Town Core. The T-5 Transect also provides for Neighborhood Cores to serve some of the neighborhoods which are closer to the Town Core area.

- (1) The Public Frontage shall include street trees and landscaping along building frontages. Street furniture should be incorporated into street frontages for commercial and mixed-use buildings.
- (2) Allowed Building Types: Single Family Residential, Townhouse, Duplexes, Triplexes, Live/Work, Mixed-Use, Elevator Flats, Office, Retail, Hotels, Civic, Parking Garage with Liner Building.



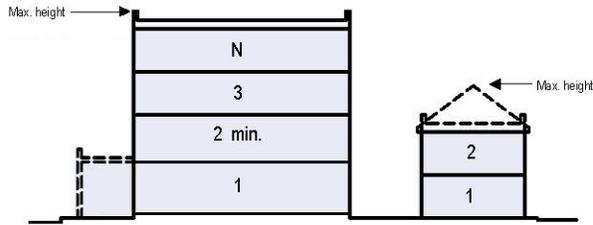
T-5 BULK REQUIREMENTS

Building Configuration	Principal Building	5 Stories/65 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	20 ft Min
	Lot Coverage	80% Max
Building Disposition (320-26.2)	Edgeward	Not Permitted
	Sideward	Permitted
	Rearward	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	2 ft Min, 12 ft Max
	Front Yard Secondary (g.2) for corner lot	2 ft Min, 12 ft Max
	Side Yard (g.3)	0 ft Min, 24 ft Max
	Rear Yard (g.4)	3 ft Min.
	Frontage Build-out	80% Min at Setback
Accessory Building Setbacks	Front (h.1)	40 ft Max. From Rear Prop.
	Side Yard (h.2)	3 ft Min. or 5 ft for a corner lot
	Rear Yard (h.3)	3 ft Max.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Not Permitted
	Green	Not Permitted
	Square	Not Permitted
	Plaza	Permitted
	Playground	Permitted

T-5 Building Configuration and Height

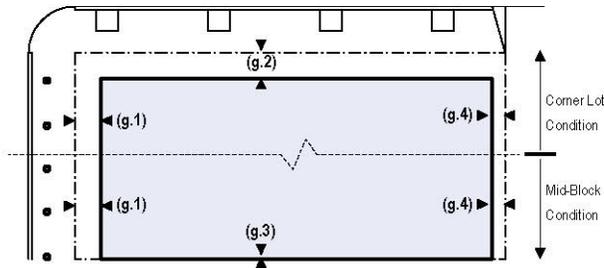
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



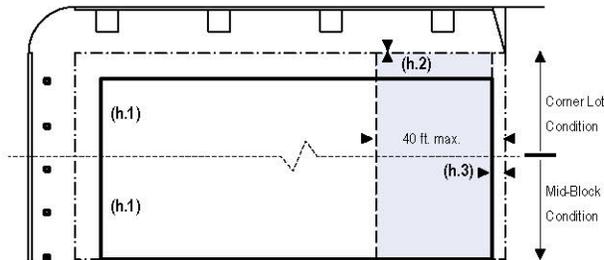
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



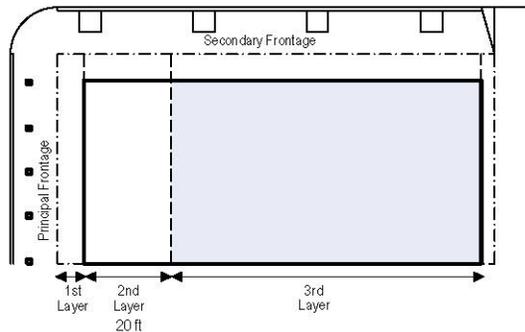
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

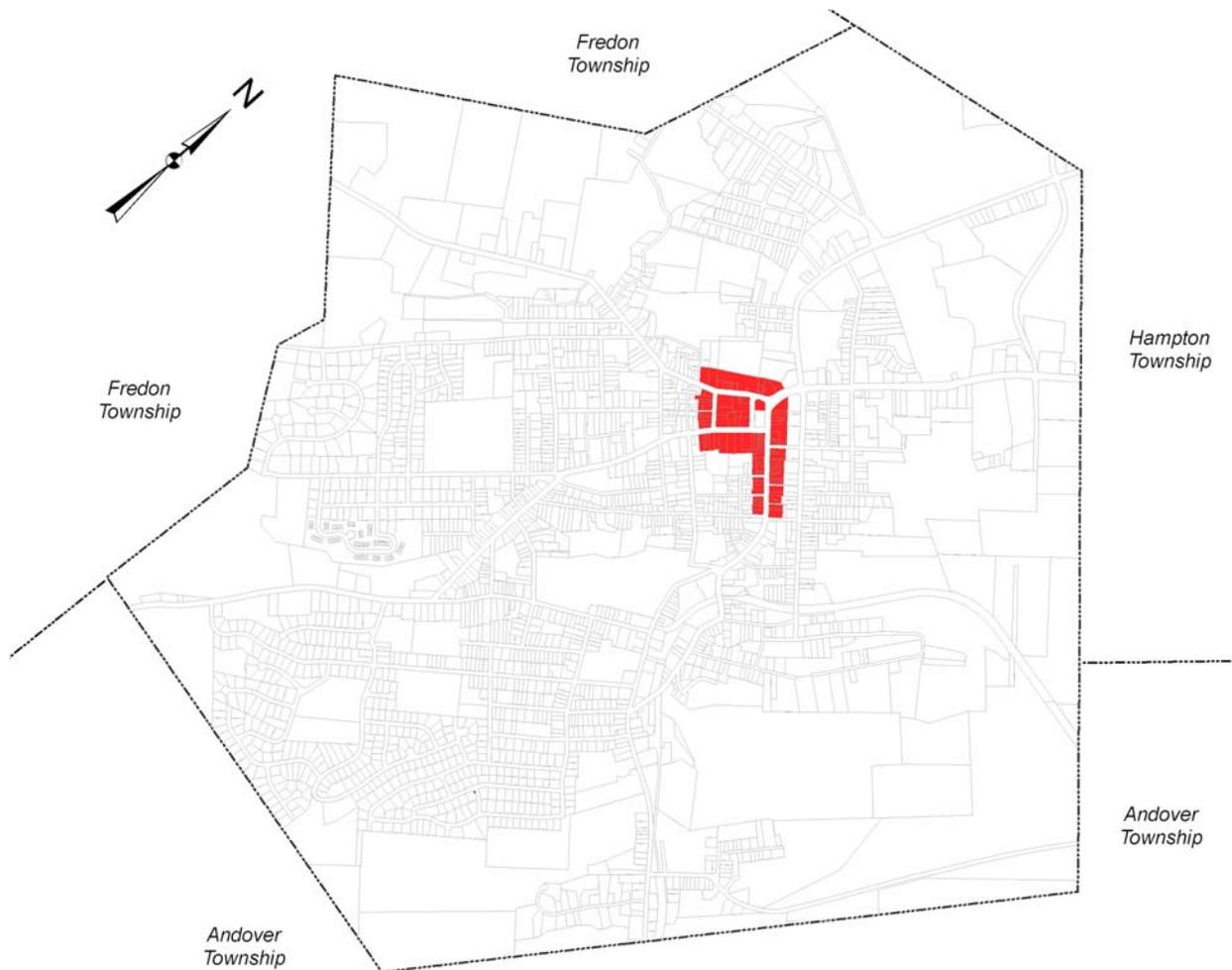


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-10 T6 – Town Core Zone



320-10.A

T-6 PURPOSE

The T-6 Transect is a higher density, mixed and multiple use downtown area. This area provides for the majority of retail and commercial uses within the Town and should be identified as the Central Business District within the Town. This area has residential and office uses over the commercial uses to support day and evening uses in the downtown.

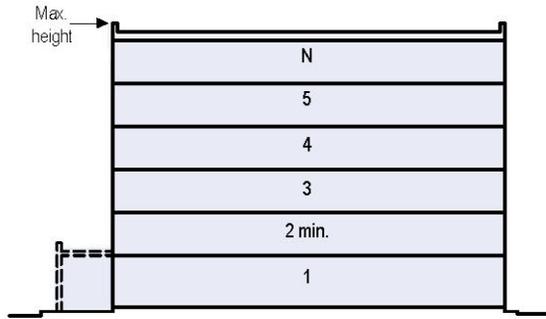
- (1) The Public Frontage shall include street trees, streetscaping and street furniture.
- (2) Allowed Building Types: Townhouse, Live/Work, Mixed-Use, Elevator Flats, Office, Retail, Hotels, Civic, Parking Structure with Liner Building.



Building Configuration	Principal Building	8 Stories/100 ft Max; 2 Min
	Accessory Building	N/A
Lot Occupation	Lot Width	18 ft Min, 700 ft Max
	Lot Coverage	90% Max
Building Disposition (320-26.2)	Edgeyard	Not Permitted
	Sideyard	Not Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	2 ft Min, 12 ft Max
	Front Yard Secondary (g.2) for corner lot	2 ft Min, 12 ft Max
	Side Yard (g.3)	0 ft Min, 24 ft Max
	Rear Yard (g.4)	0 ft Min.
	Frontage Build-out	80% Min at Setback
Accessory Building Setbacks	Front (h.1)	N/A
	Side Yard (h.2)	N/A
	Rear Yard (h.3)	N/A
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Not Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Not Permitted
	Green	Not Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

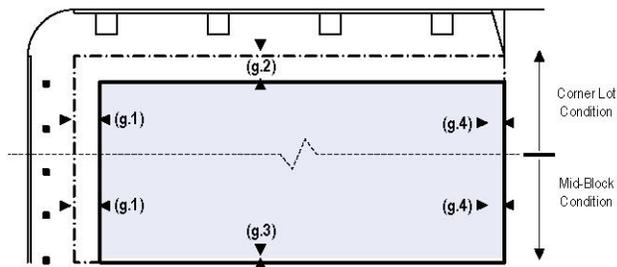
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



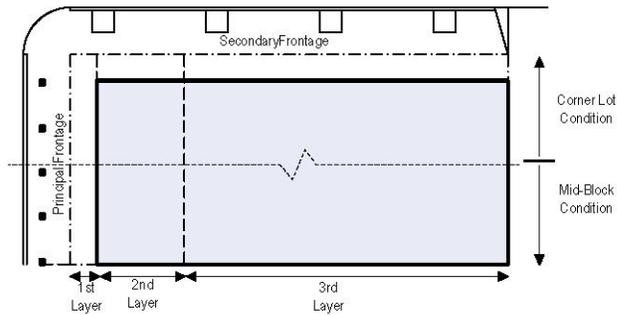
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.

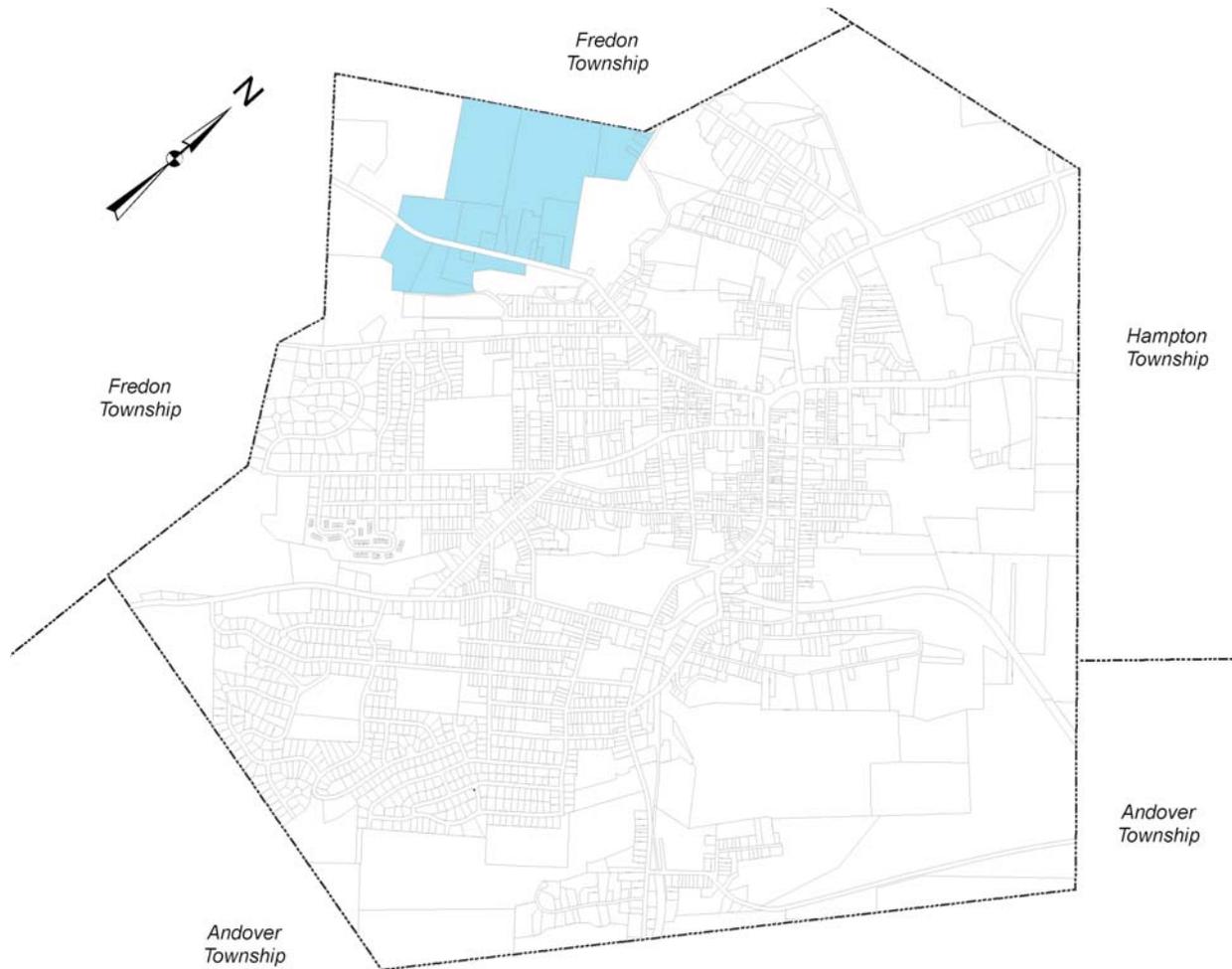


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the second and third Layer as shown in the diagram. Side or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning



Section 320-11. Special District 1 – Hospital Zone



320-11.A SD-1 PURPOSE

Special District 1: Hospital Zone covers the Newton Medical Center and support services for the hospital. The following building types are permitted in the District:

- (1) Civic Institutional;
- (2) Historic Institutional;
- (3) Parking Garage;
- (4) Parking Garage with Liner building;
- (5) Office;
- (6) Research and Development/Labs.



Building Configuration	Principal Building	5 Stories/65 ft Max.
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	90 ft Min
	Lot Coverage	50% Max
Building Disposition (320-26.2)	Edgeyard	Not Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	40 ft. Min.
	Front Yard Secondary (g.2) for corner lot	40 ft. Min.
	Side Yard (g.3)	20 ft. one side, 35 total
	Rear Yard (g.4)	50 ft. Min.
	Frontage Build-out	Not Applicable
Accessory Building Setbacks	Front (h.1)	40 ft Min.
	Side Yard (h.2)	10 ft. Min.
	Rear Yard (h.3)	30 ft. Min.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Not Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

SD-1 Building Configuration, Height and Setbacks

BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.

SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.

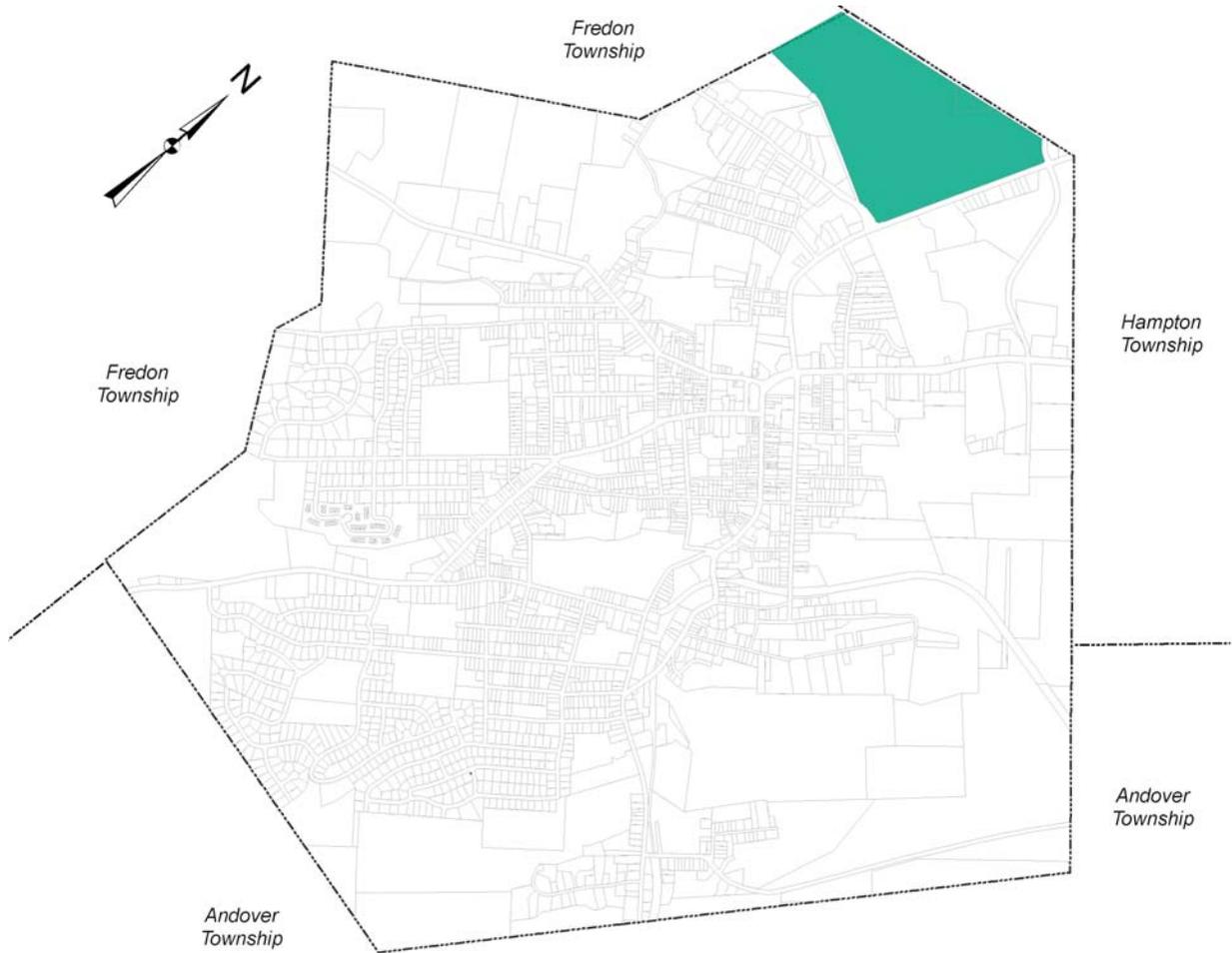
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.

Section 320-12. Special District 2 – College Zone



320-12.A

SD-2 PURPOSE

Special District 2: College Zone covers the Sussex County Community College Campus. The following building types are permitted in the District:

- (1) Civic Institutional;
- (2) Historic Institutional;
- (3) Offices;
- (4) Multi-Family Residential,
- (5) Elevator Flats;
- (6) Parking Garage; and
- (7) Parking Garage with Liner Building.



320-12.B

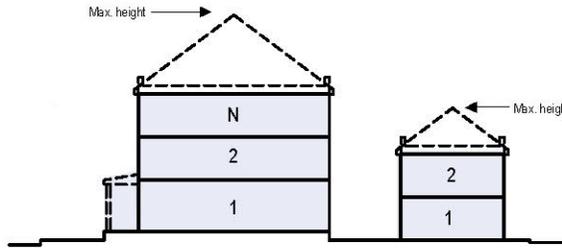
SD-2 BULK REQUIREMENTS

Building Configuration	Principal Building	4 Stories/50 ft Max
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	50 ft Min
	Lot Coverage	60% Max
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	40 ft Min
	Front Yard Secondary (g.2) for corner lot	40 ft Min
	Side Yard (g.3)	20 ft Min
	Rear Yard (g.4)	20 ft Min
	Frontage Build-out	Not Applicable
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Principal Bldg. Setback
	Side Yard (h.2)	10 ft Min.
	Rear Yard (h.3)	10 ft Min.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

SD-2 Building Configuration, Height and Setbacks

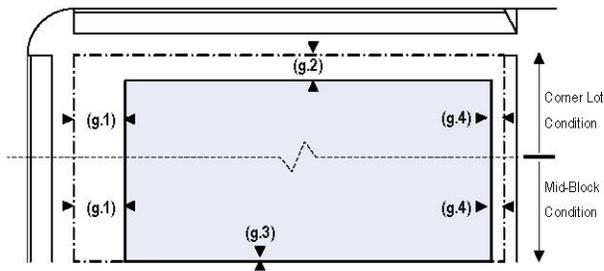
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



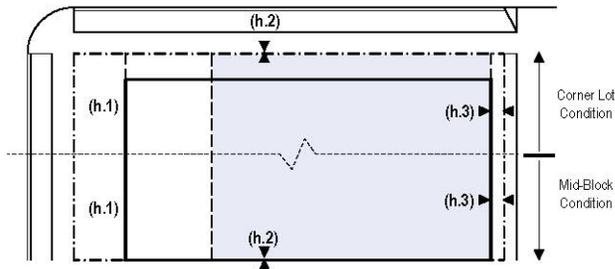
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



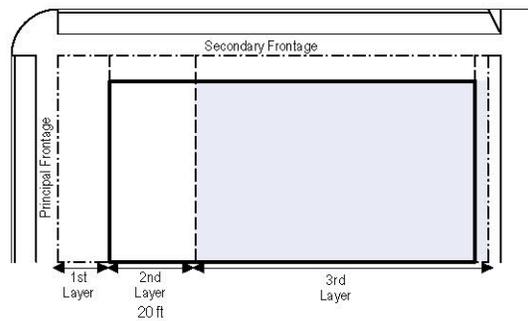
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

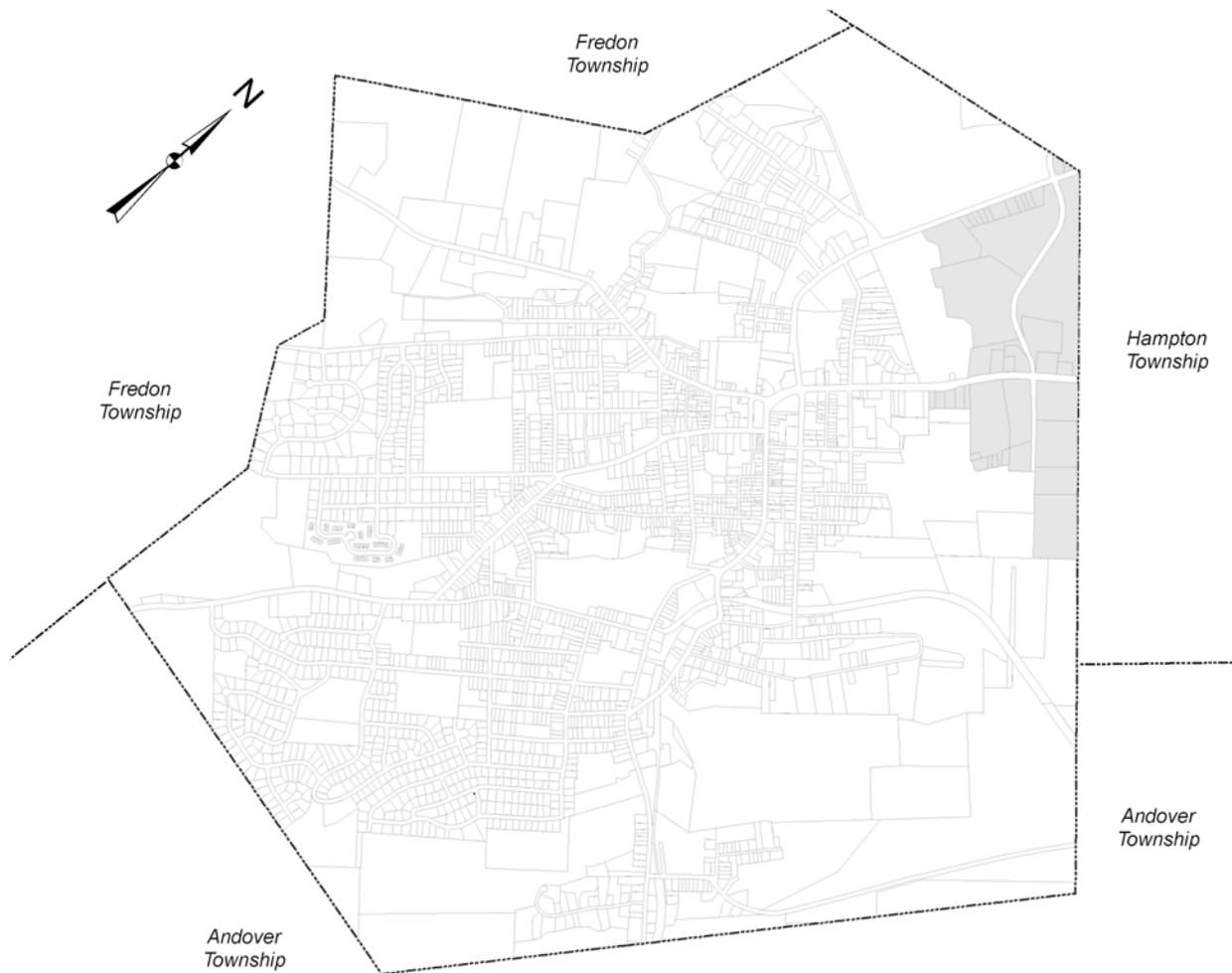


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-13 Special District 3 – Retail/Manufacturing Zone



320-13.A SD-3 PURPOSE

Special District 3: Retail/Manufacturing Zone covers the area along US Route 206 at its intersection with North and South Park Drive. This area includes existing large scale retail and industrial uses. The area may be a location for relocated light manufacturing and industrial uses which currently exist in redevelopment areas. The following building types are permitted in the District:

- (1) Research/Warehouse;
- (2) Large Scale Retail;
- (3) Retail;
- (4) Hotels;
- (5) Live/Work;
- (6) Drive-Through Retail;
- (7) Parking Garage; and
- (8) Parking Garage with Liner Building.



320-13.B

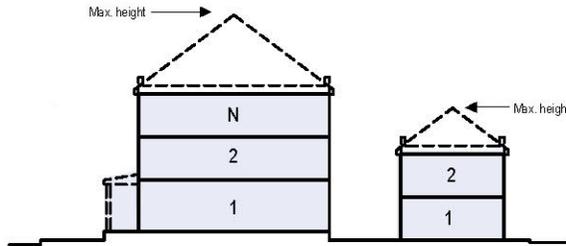
SD-3 BULK REQUIREMENTS

Building Configuration	Principal Building	4 Stories/50 ft Max; 2 Story min. façade
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	50 ft Min
	Lot Coverage	70% Max
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	6 ft Min, 18 ft Max
	Front Yard Secondary (g.2) for corner lot	6 ft Min, 18 ft Max
	Side Yard (g.3)	10 ft Min
	Rear Yard (g.4)	3 ft Min.
	Frontage Build-out	50% Min at Setback
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Bldg. Setback
	Side Yard (h.2)	5 ft Min. or 10 ft at Corner
	Rear Yard (h.3)	5 ft Min.
Private Frontages (320-26.1)	Common Lawn	N/A
	Porch and Fence	N/A
	Terrace	N/A
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

320-13.C SD-3 Building Configuration, Height and Setbacks

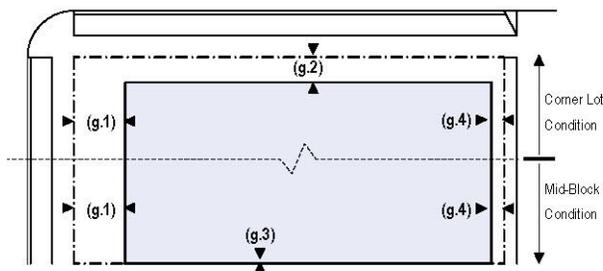
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



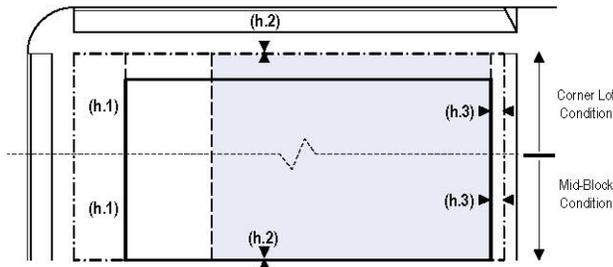
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



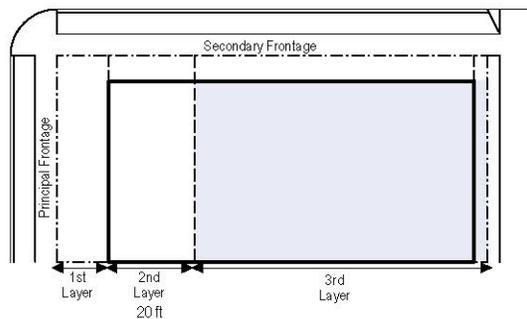
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

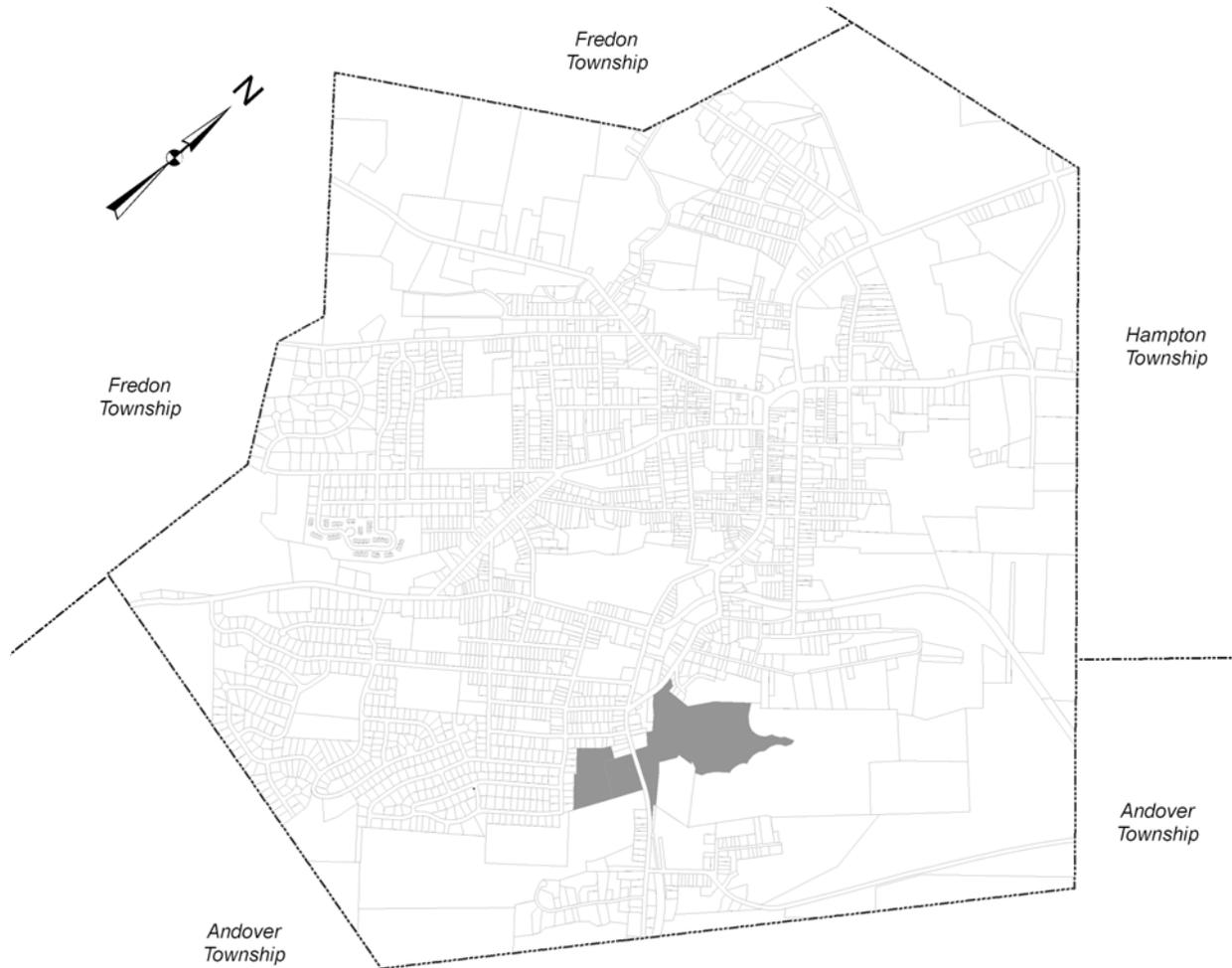


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-14 Special District 4 – Industrial/Manufacturing Zone



320-14.A

SD-4 PURPOSE

Special District 4: Industrial/Manufacturing Zone covers the existing industrial site and adjacent lands along and across from Sparta Avenue. This area includes an existing manufacturing facility and has potential for additional manufacturing and light industrial development to provide industries and employment within the Town. Where proposed development abuts residential areas, year-round buffers should be provided. The following building types are permitted in the District:

- (1) Light Industrial ;
- (2) Food Production; and
- (3) Industrial (Northeast of Sparta Avenue only).



320-14.B

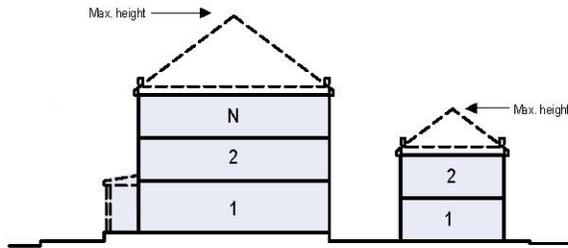
SD-4 BULK REQUIREMENTS

Building Configuration	Principal Building	4 Stories/50 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	50 ft Min
	Lot Coverage	70% Max
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Not Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	30 ft Min
	Front Yard Secondary (g.2) for corner lot	30 ft Min
	Side Yard (g.3)	30 ft Min
	Rear Yard (g.4)	30 ft Min.
	Frontage Build-out	Not Applicable
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Bldg. Setback
	Side Yard (h.2)	20 ft Min
	Rear Yard (h.3)	20 ft Min
Private Frontages (320-26.1)	Common Lawn	N/A
	Porch and Fence	N/A
	Terrace	N/A
	Forecourt	N/A
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted
Civic Spaces (320-26.3)	Park	Permitted
	Green	Permitted
	Square	Permitted
	Plaza	Permitted
	Playground	Permitted

320-14.C SD-4 Building Configuration, Height and Setbacks

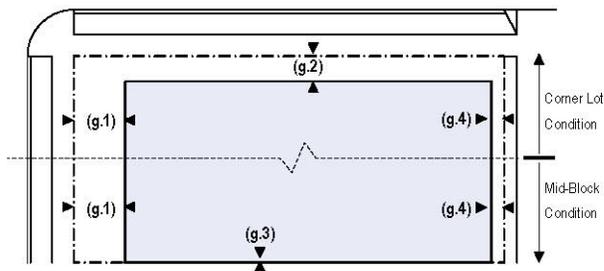
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



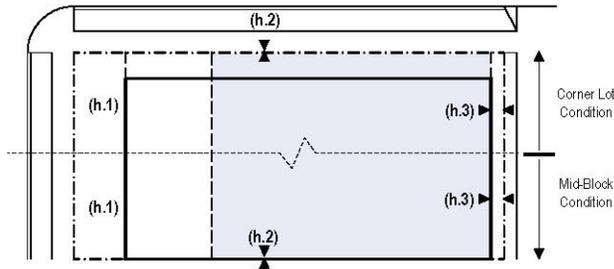
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



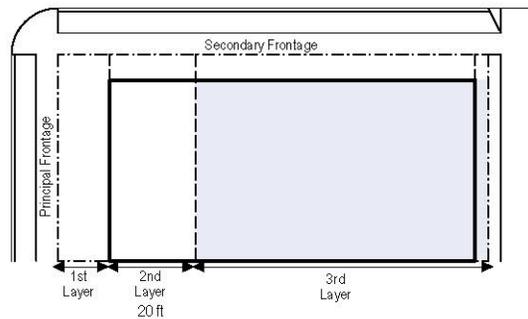
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

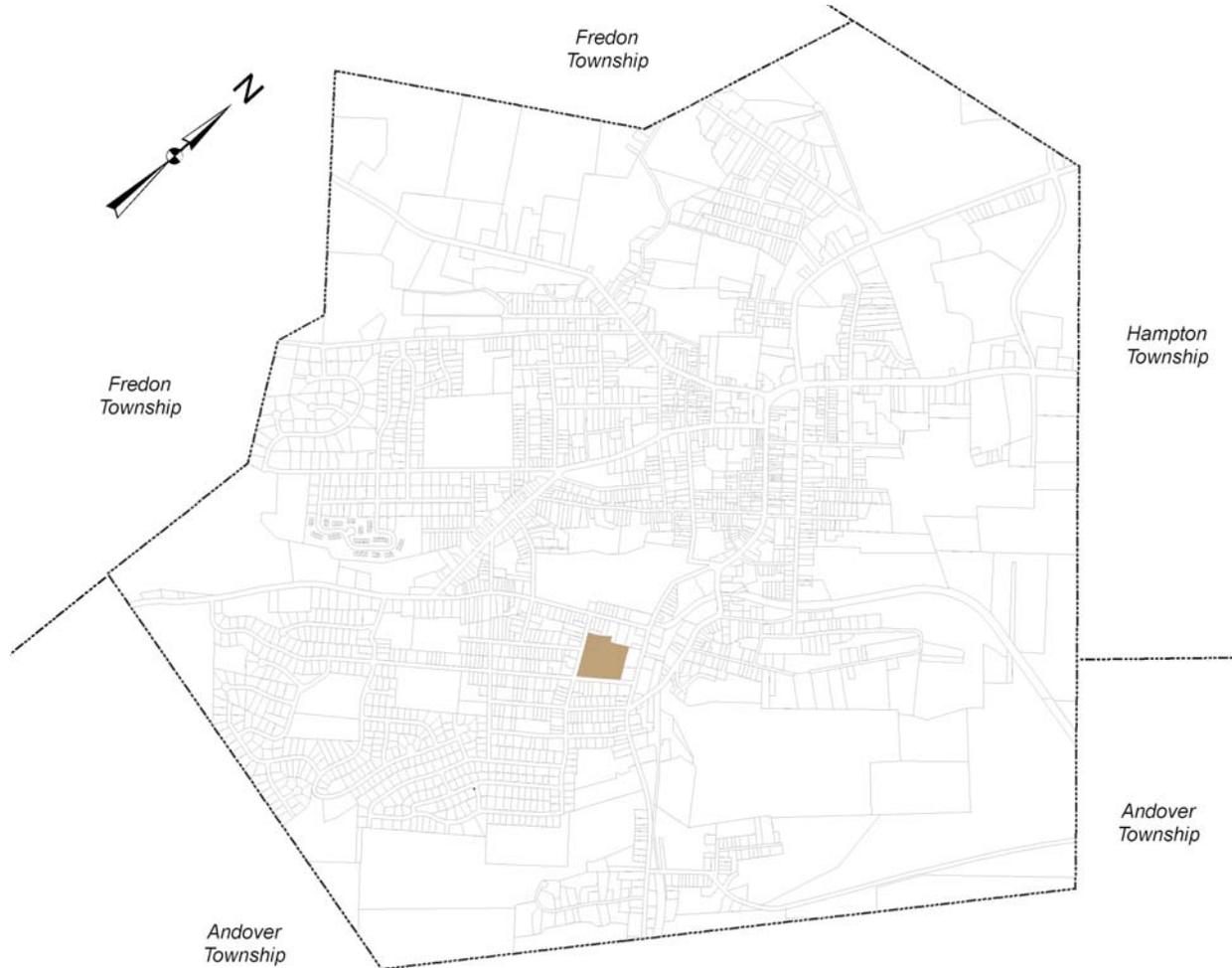


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-15 Special District 5 – Office/Manufacturing Zone



320-15.A

SD-5 PURPOSE

Special District 5: Office/Manufacturing Zone covers the Sparta Avenue redevelopment area; where office and manufacturing uses are make up the headquarters for Thor Labs. The uses are governed by the redevelopment plan for the area. The following building types are permitted in the District:

- (1) Offices;
- (2) Research/Warehouse;
- (3) Mixed-Use Buildings;
- (4) Parking Garage; and
- (5) Parking Garage with Liner Building.



320-15.B

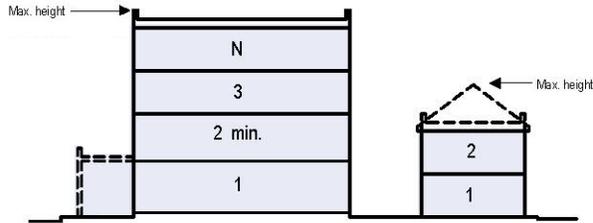
SD-5 BULK REQUIREMENTS

Building Configuration	Principal Building	5 Stories/65 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	Not Applicable
	Lot Coverage	67% Max
Building Disposition (320-26.2)	Edgeyard	Not Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	40 ft Min
	Front Yard Secondary (g.2) for corner lot	40 ft Min
	Side Yard (g.3)	10 ft Min
	Rear Yard (g.4)	10 ft Min
	Frontage Build-out	Not Applicable
Accessory Building Setbacks	Front (h.1)	40 ft Min
	Side Yard (h.2)	10 ft Min
	Rear Yard (h.3)	10 ft Min
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
Arcade	Permitted	

SD-5 Building Configuration, Height and Setbacks

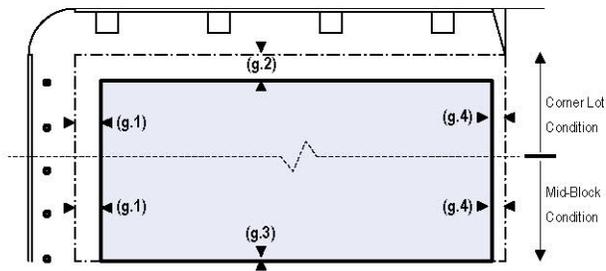
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



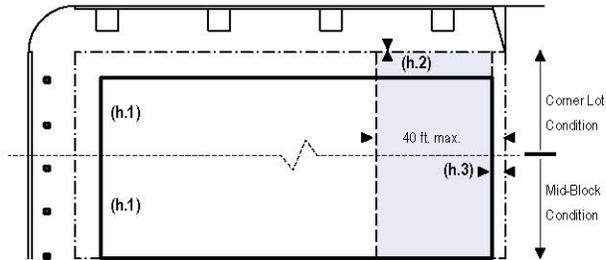
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



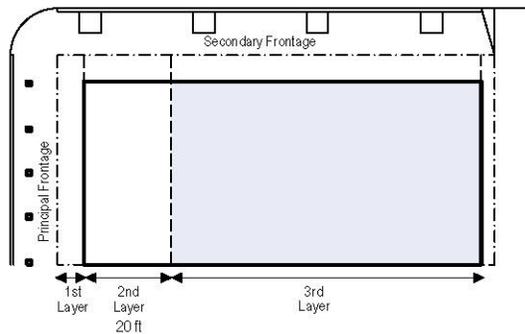
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.



PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-16 Special District 6 – School Zone



320-16.A

SD-6 PURPOSE

Special District 6: Schools Zone covers the Newton High School, Halsted Street School, Merriam Avenue Elementary School and St. Joseph Regional School. The following building types are permitted in the District:

- (1) Civic Institutional;
- (2) Historic Institutional;
- (3) Parking Garage; and
- (4) Parking Garage with Liner Building.



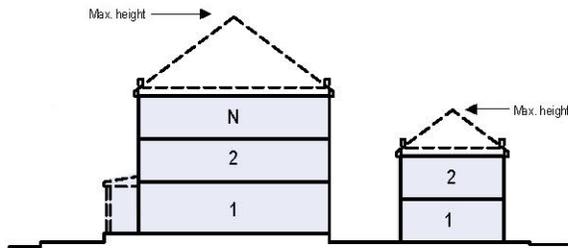
320-16.B

SD-6 BULK REQUIREMENTS

Building Configuration	Principal Building	4 Stories/50 ft Max
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	18 ft Min
	Lot Coverage	70% Max
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sidyard	Permitted
	Rearyard	Permitted
	Courtyard	Not Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	6 ft Min, 18 ft Max
	Front Yard Secondary (g.2) for corner lot	6 ft Min, 18 ft Max
	Side Yard (g.3)	0 ft Min
	Rear Yard (g.4)	3 ft Min.
	Frontage Buildout	60% Min at Setback
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Principal Bldg. Setback
	Side Yard (h.2)	5 ft Min. or 10 ft at Corner
	Rear Yard (h.3)	5 ft Min.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Not Permitted

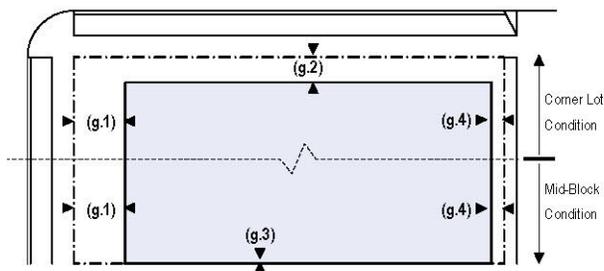
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



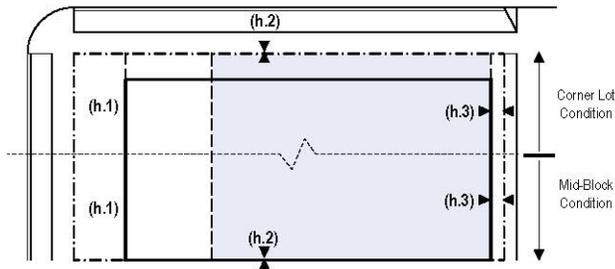
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



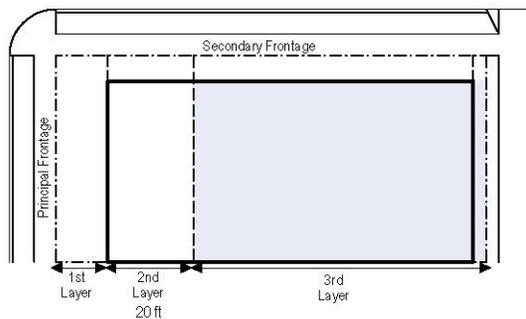
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

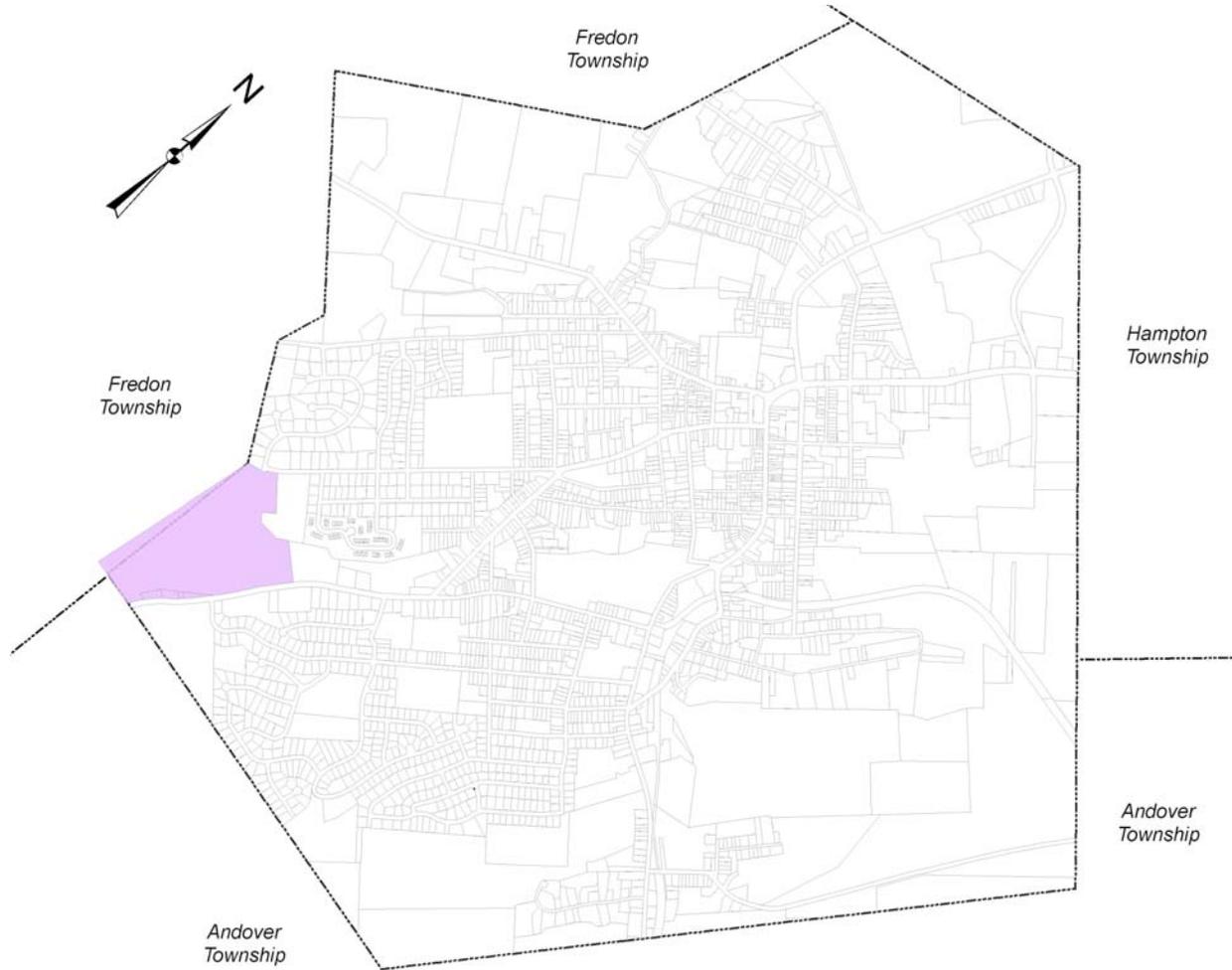


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-17 Special District 7 – Senior Community Zone



320-17.A

SD-7 PURPOSE

Special District 7: Senior Community Zone covers the Bristol Glen / United Methodist Homes Continuing Care and Assisted Living Facility. The following building types are permitted in the District:

- (1) Duplex Residential;
- (2) Triplex Residential;
- (3) Civic Institutional;
- (4) Historic Institutional;
- (5) Multi-Family Residential;
- (6) Elevator Flats;
- (7) Townhouse,
- (8) Parking Garage; and
- (9) Parking Garage with Liner Building.

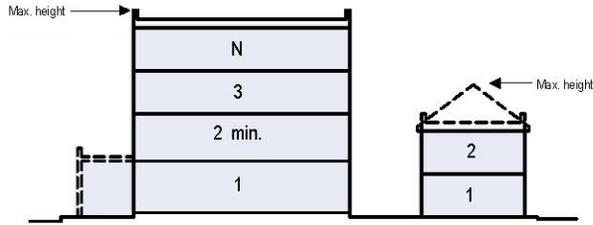
320-17.B

SD-7 BULK REQUIREMENTS

Density	Residential Density	8 du/acres
Open Space	Required Open Space	50 percent of tract
Building Configuration	Principal Building	5 Stories/65 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	50 ft Min
	Lot Coverage	50% Max
Building Disposition (320-26.2)	Edgeyard	Not Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Permitted
Principal Building Setbacks	Front Yard Primary (g.1)	40 ft Min
	Front Yard Secondary (g.2) for corner lot	40 ft Min
	Side Yard (g.3)	0 ft Min, 24 ft Max
	Rear Yard (g.4)	3 ft Min.
	Frontage Buildout	80% Min at Setback
Accessory Building Setbacks	Front (h.1)	40 ft Max. From Rear Prop.
	Side Yard (h.2)	3 ft Min. or 5 ft at Corner
	Rear Yard (h.3)	3 ft Max.
Private Frontages (320-26.1)	Common Lawn	Not Permitted
	Porch and Fence	Not Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted

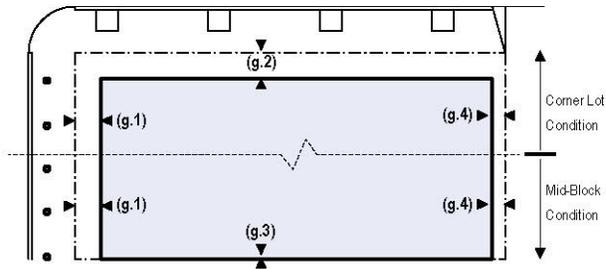
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



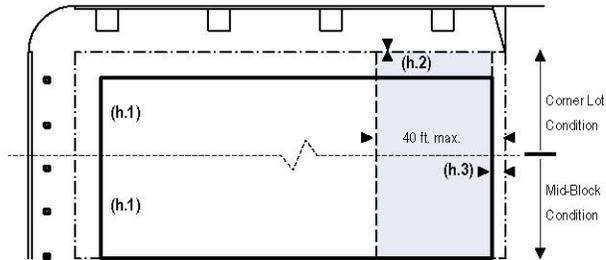
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



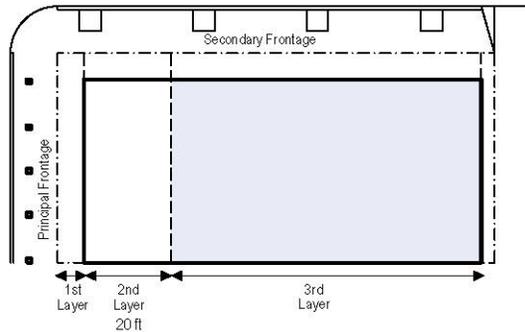
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.

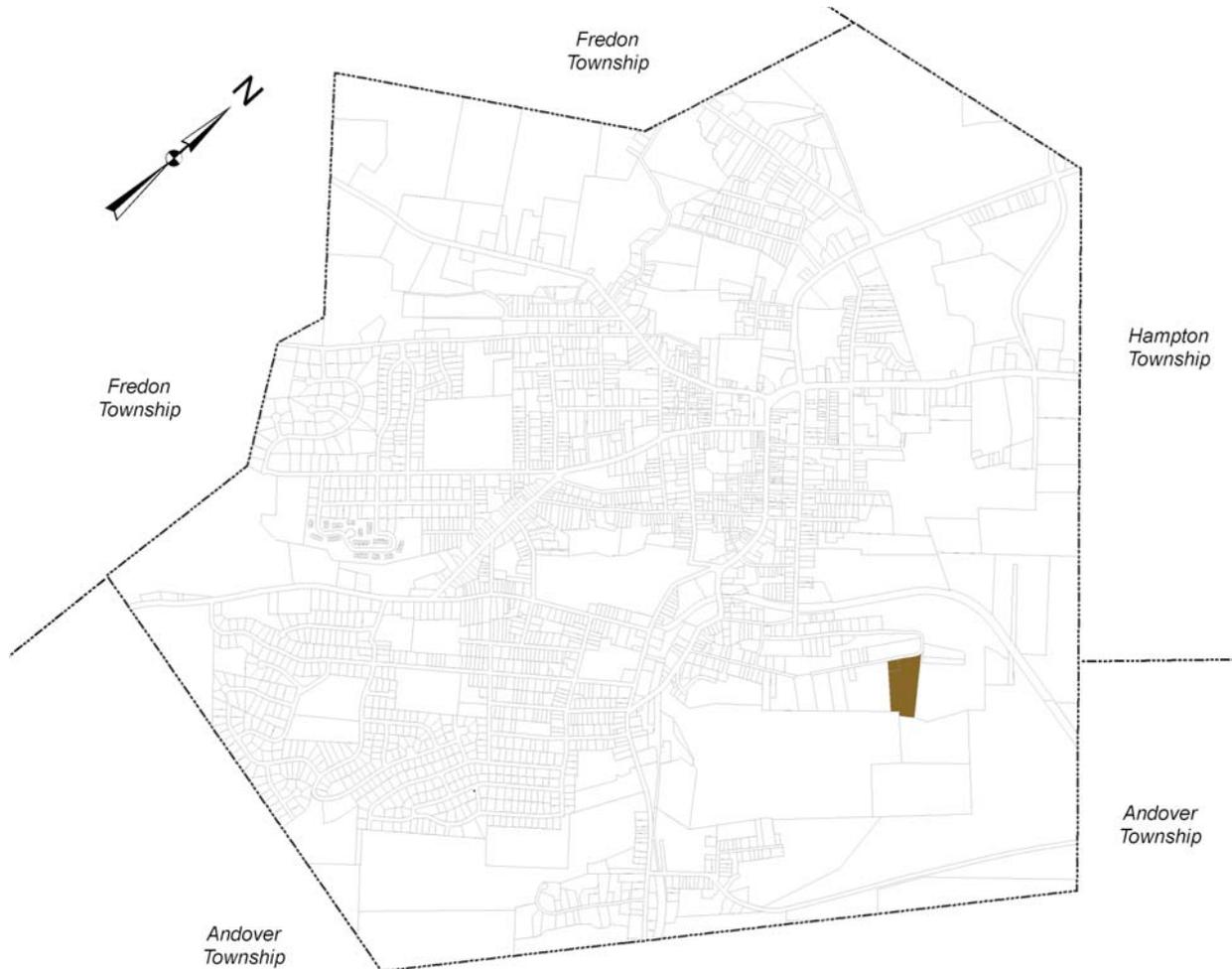


PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



Section 320-18 Special District 8 – Utility Zone



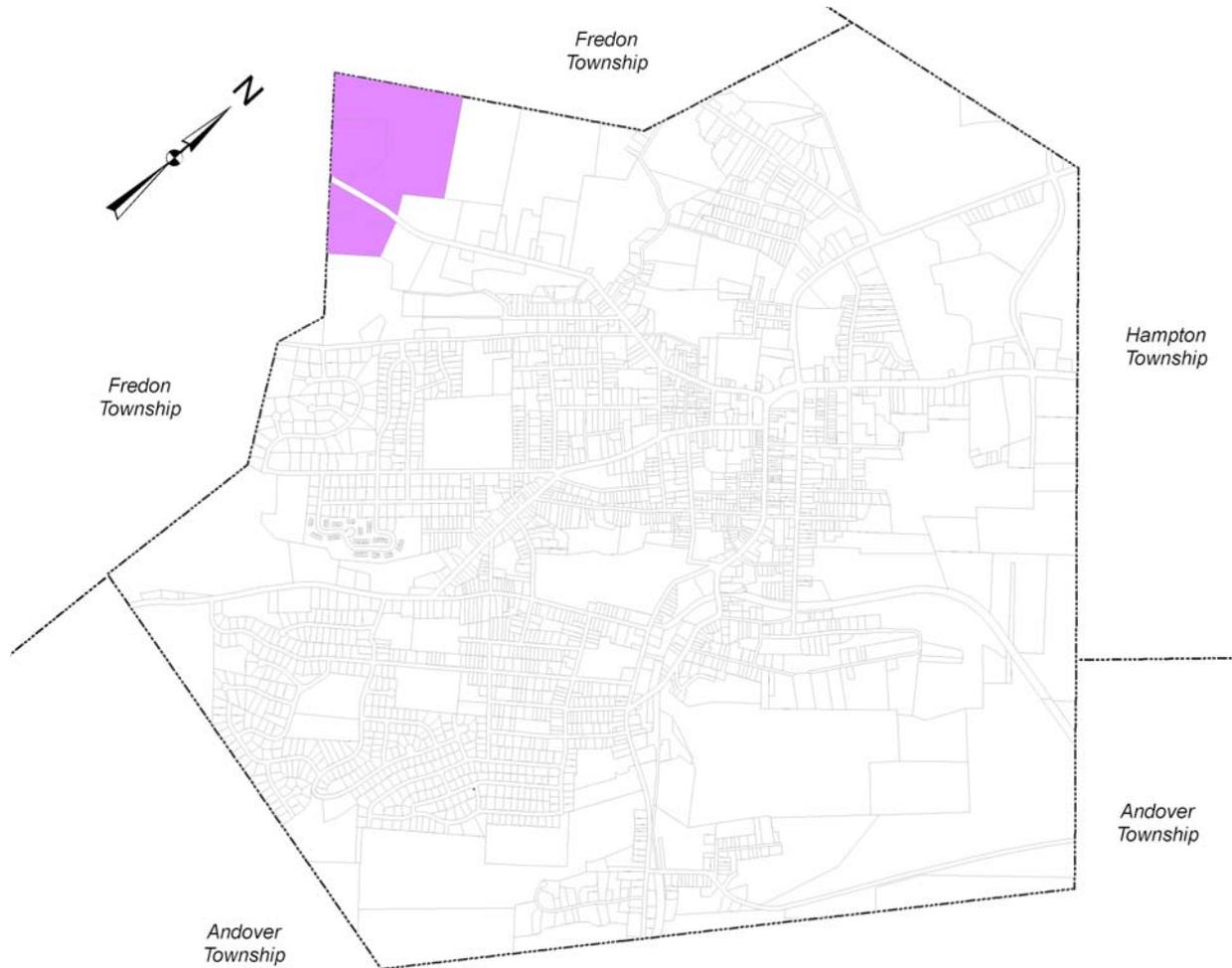
320-18.A

SD-8 PURPOSE

Special District 8: Utility Zone covers the Newton Power Substation. The following uses are permitted in the District:

- (1) Power Substation
- (2) Electric Utilities
- (3) Accessory Uses to the Foregoing
- (4) Setbacks:
 - (a) 10 Foot Front Yard
 - (b) 5 Foot Side Yard
 - (c) 5 Foot Rear Yard

Section 320-19 Special District 9 – Planned Neighborhood Development Zone



320-19.A

SD-9 PURPOSE

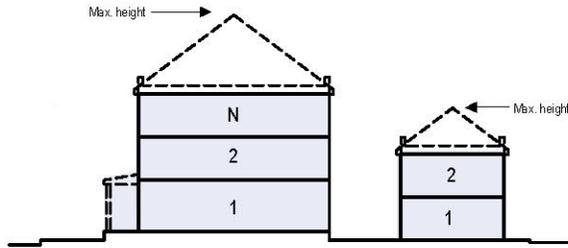
Special District 9: Planned Neighborhood Development Zone covers approximately 52 acres along High Street at the western edge of Town. Development in this zone includes a mandatory 20% set-aside for affordable housing. Mixed-use is permitted along High Street and adjacent to the Newton Hospital to provide retail and services to the neighborhood. The remainder of the development is permitted to be residential and should vary in density from higher density closer to High Street to lower density further from the road frontage. A minimum of three building types shall be provided for any development. The following building types are permitted in the District:

- (1) Single Family;
- (2) Townhouses;
- (3) Multi-Family Residential and Elevator Flats;
- (4) Duplexes;
- (5) Triplexes;
- (6) Mixed-Use Buildings;
- (7) Live/Work; and
- (8) Parking Garages and Parking Garages with Liner Buildings.

Building Configuration	Principal Building	4 Stories/50 ft Max; 2 Min
	Accessory Building	2 Stories/25 ft Max
Lot Occupation	Lot Width	20 ft Min
	Lot Coverage	70% Max
Residential Density	85% of the development	Max. 6 du/acre
	15% of the development	Max. 12 du/acre
Affordable Housing Requirement	Minimum Set Aside	20% of residential
Building Disposition (320-26.2)	Edgeyard	Permitted
	Sideyard	Permitted
	Rearyard	Permitted
	Courtyard	Not Permitted
Commercial/Mixed-Use Building Setbacks	Front Yard Primary (g.1) (NE side lot line along hospital lot should be treated as a front yard)	10 ft Min, 30 ft Max
	Front Yard Secondary (g.2) for corner lot	10 ft Min, 30 ft Max
	Side Yard (g.3)	20 ft Min
	Rear Yard (g.4)	50 ft Min.
	Frontage Build-out	60% Min at Setback
Residential Building Setbacks	Front Yard Primary	100 ft Min
	Front Yard Secondary	20 ft Min
	Side Yard	20 ft Min
	Rear Yard	50 ft Min
	Frontage Build-out	Not Applicable
Accessory Building Setbacks	Front (h.1)	20 ft Min. + Principal Bldg. Setback
	Side Yard (h.2)	5 ft Min. or 10 ft at Corner
	Rear Yard (h.3)	5 ft Min.
Private Frontages (320-26.1)	Common Lawn	Permitted
	Porch and Fence	Permitted
	Terrace	Permitted
	Forecourt	Permitted
	Shopfront and Awning	Permitted
	Gallery	Permitted
	Arcade	Permitted

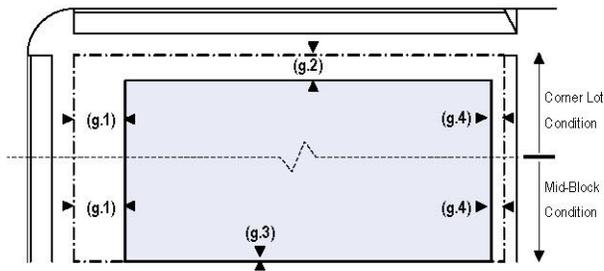
BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



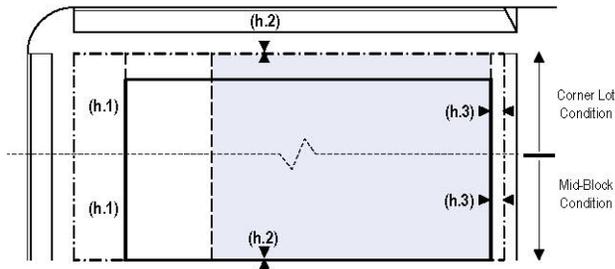
SETBACKS - PRINCIPAL BLDG

1. The facades and elevations of Principal Buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.



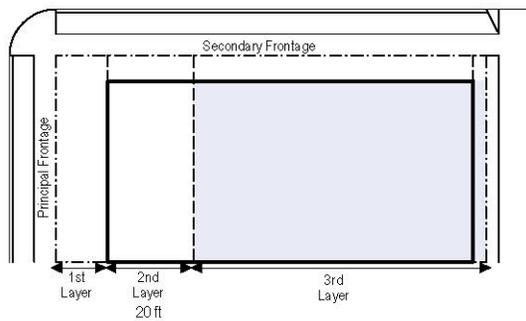
SETBACKS - OUTBUILDINGS

1. The elevation of the Outbuilding shall be distanced from the lot lines as shown.



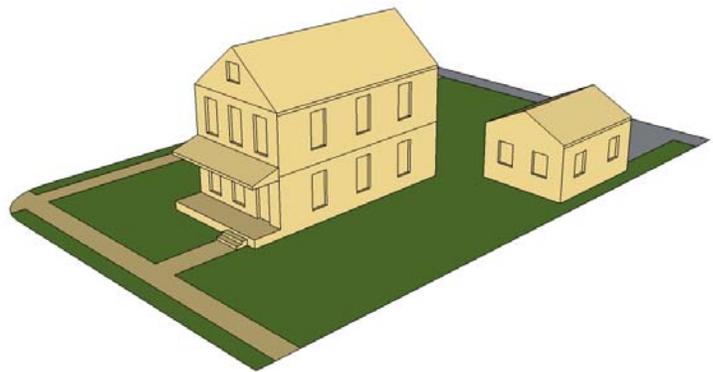
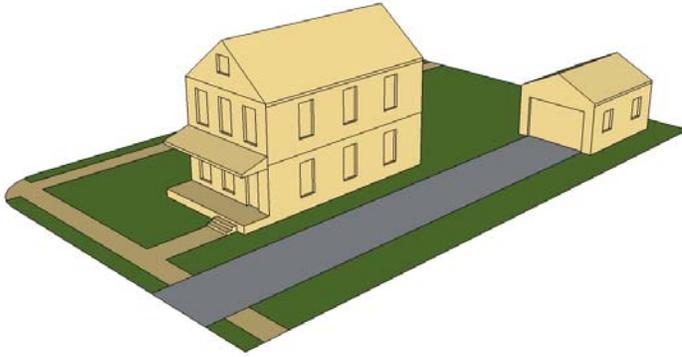
PARKING PLACEMENT

1. Uncovered parking spaces may be provided within the third Layer as shown in the diagram.
2. Covered parking shall be provided within the third Layer as shown in the diagram. Side- or rear-entry garages may be allowed in the first or second layer at the discretion of the Planning Board.
3. Trash containers shall be stored within the third Layer.



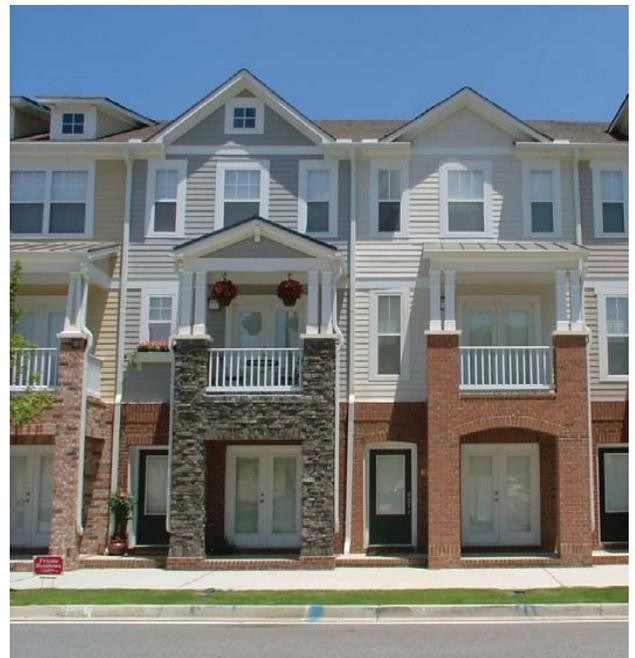
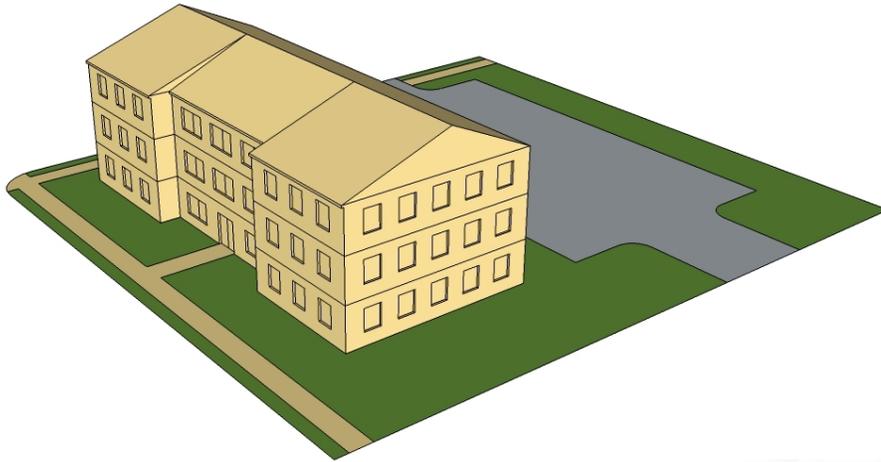
Section 320-20 Building Types

This section provides guidelines for the building types permitted in each Transect Zone. The building types provide for the function, disposition of the building on the lot in relation to parking and landscaped areas and building form based on general use categories. The photographs and layout for each building type are suggestive of how each building type should be developed. Surrounding character of the neighborhood should be taken into account when determining the design of the building. Parking should be located behind or on the sides of buildings whenever possible. For residential lots where access from the rear is not possible, some options for providing parking in front of the building are shown. Parking to the rear of the building is always favored over parking in the front. Unified design themes for developments are encouraged; however variation of design throughout developments is also encouraged to provide for more visual interest and creation of unique building frontages. All sides of a building with views from parking areas, streets, access points or rights of way shall be finished with all architectural design features prominent on main facades. Visual breaks shall be provided on vertical and horizontal planes so as to provide for visual interest. Long buildings shall have breaks in the horizontal plane and vertical breaks are also suggested for buildings over four stories in height. For setbacks, height and lot configuration see the table in the appropriate zone. Frontage types are regulated by Transect and full development of the public and semi-public edges of the development are required.



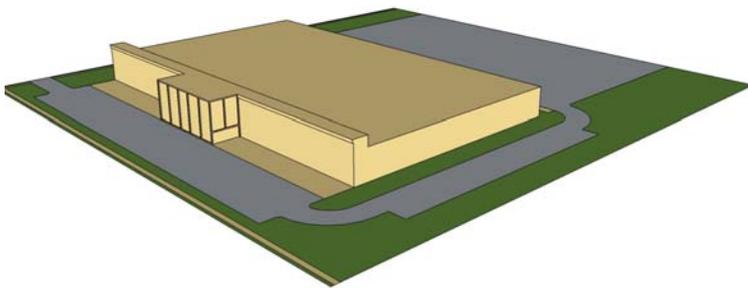
320-20.A SINGLE FAMILY RESIDENTIAL

320:79

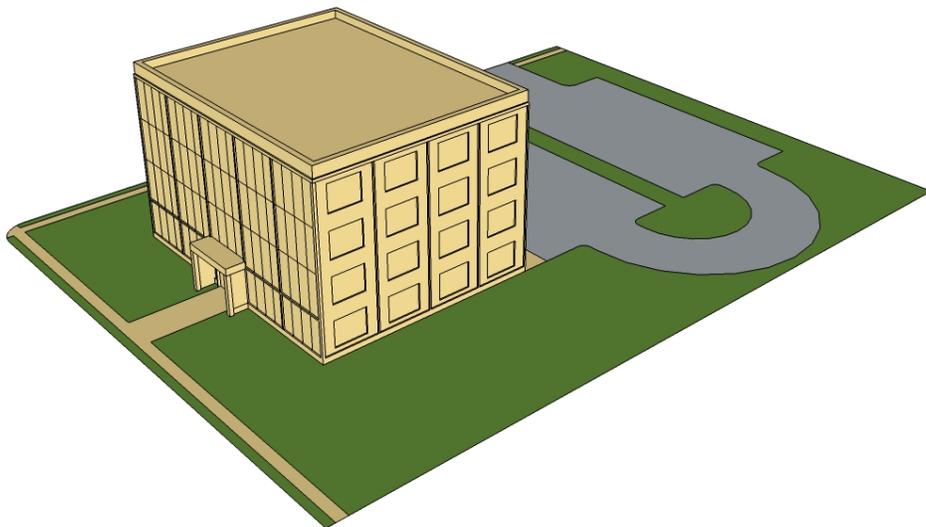


320-20.B MULTI-FAMILY RESIDENTIAL

320:80

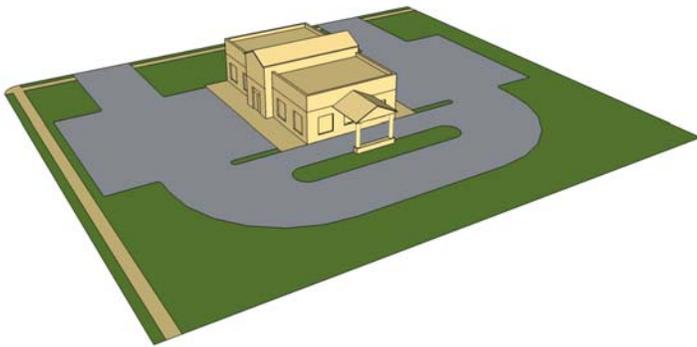


320-20.C LARGE SCALE RETAIL STORE



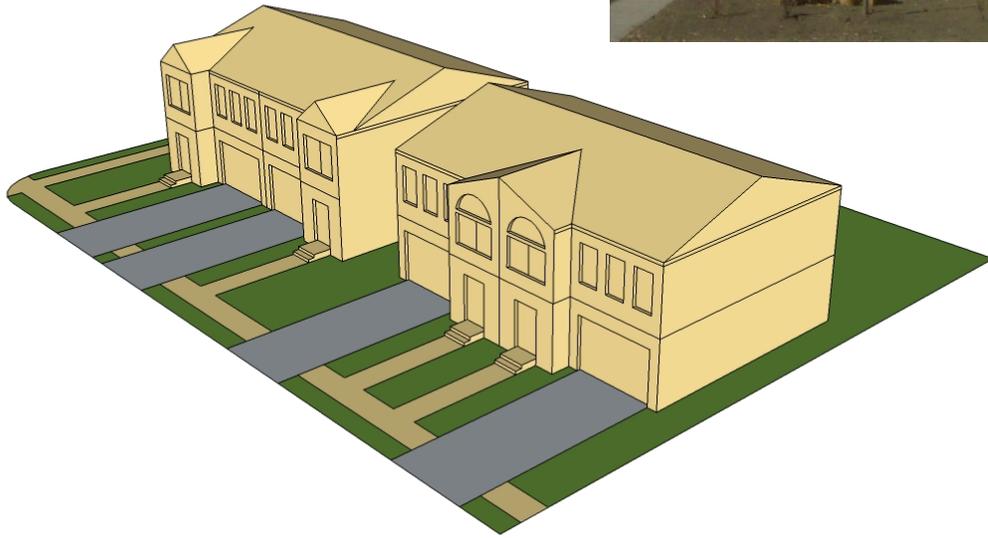
320-20.D CIVIC/INSTITUTIONAL

320:82

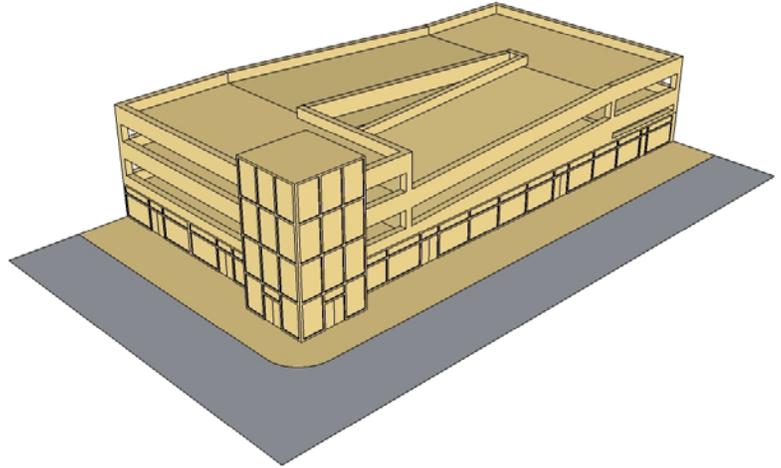


320-20.E DRIVE-THRU

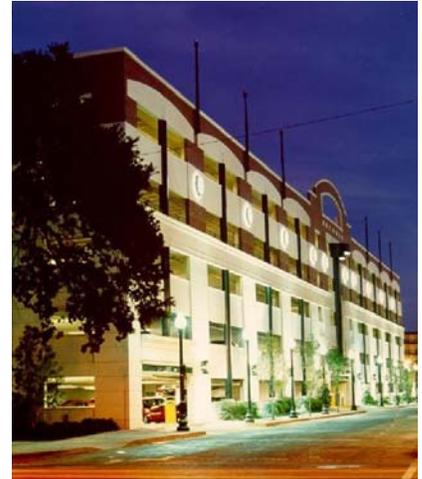
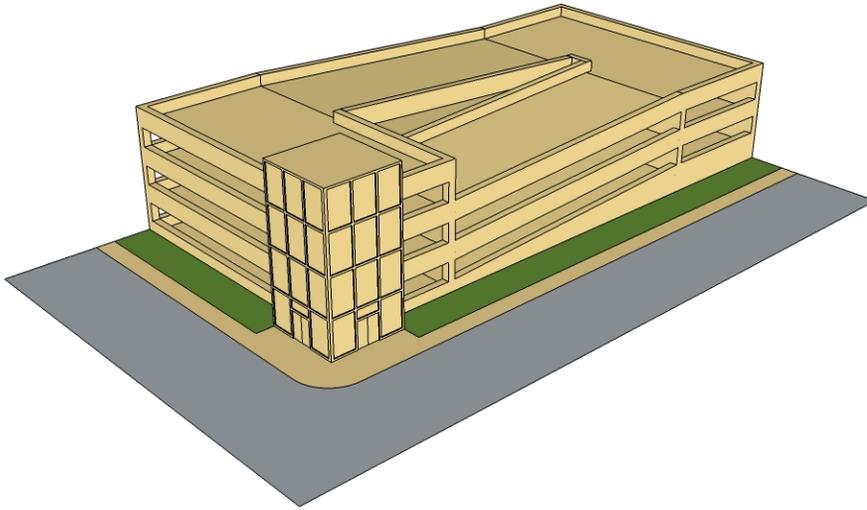
320:83



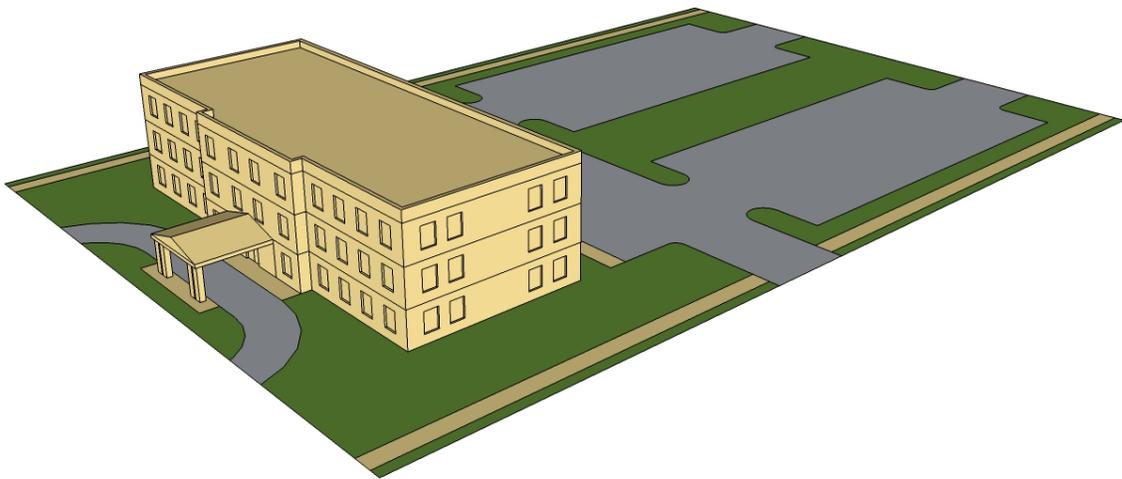
320-20.F DUPLEX RESIDENTIAL



320-20.G PARKING GARAGE WITH LINER BUILDING

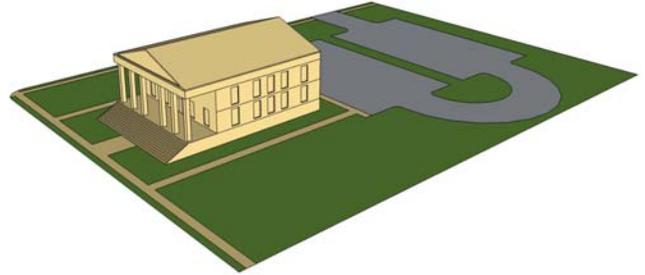


320-20.H **PARKING GARAGE**



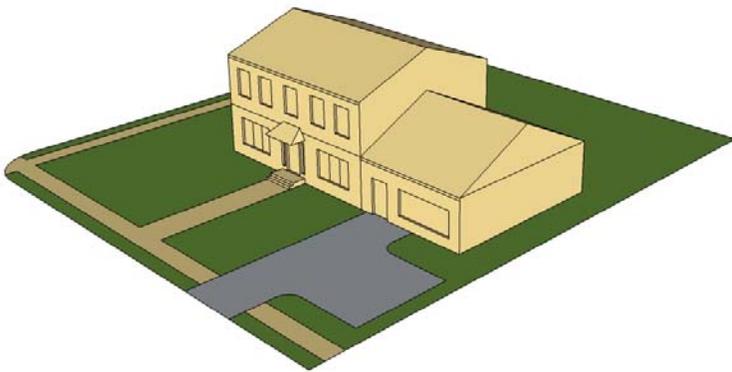
320-20.1 HOTEL

320:87



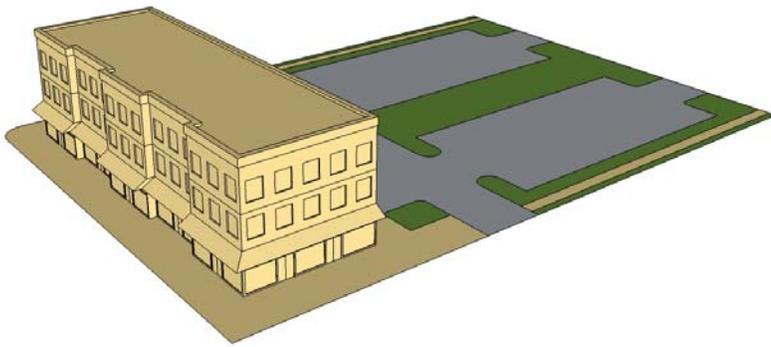
320-20.J HISTORIC INSTITUTIONAL

320:88



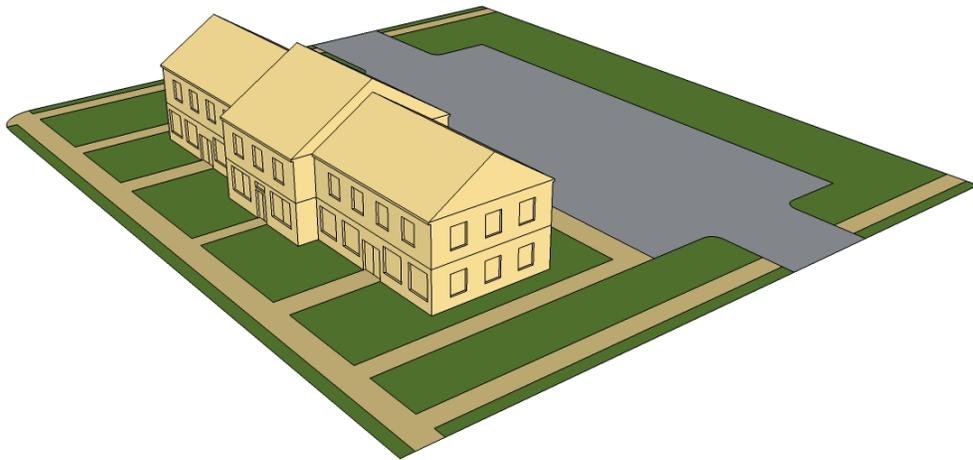
320-20.K LIVE/WORK

320:89



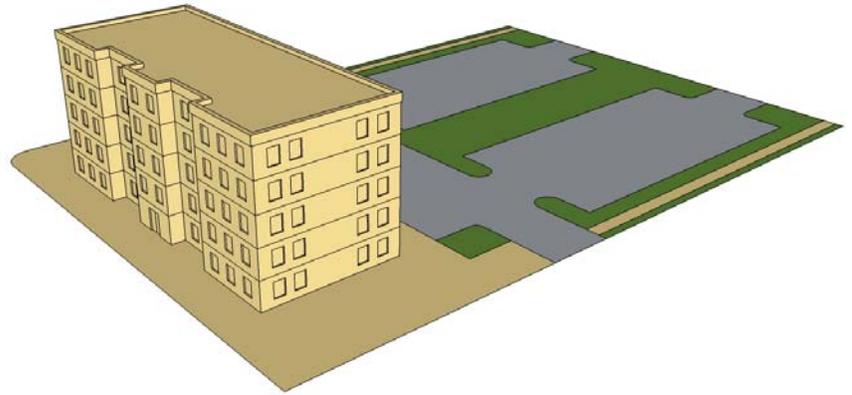
320-20.L MIXED-USE BUILDINGS

320:90



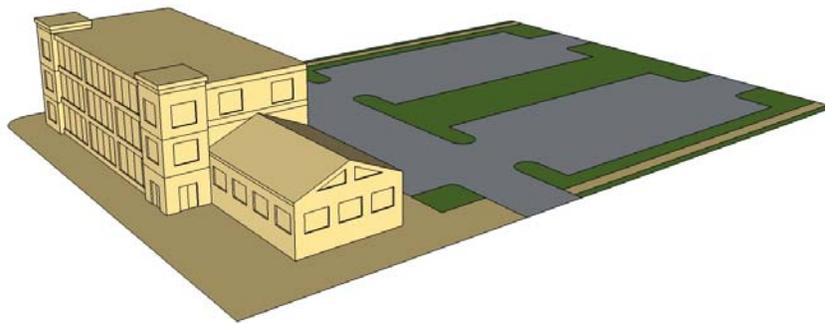
320-20.M OFFICE

320:91



320-20.N ELEVATOR FLATS

320:92



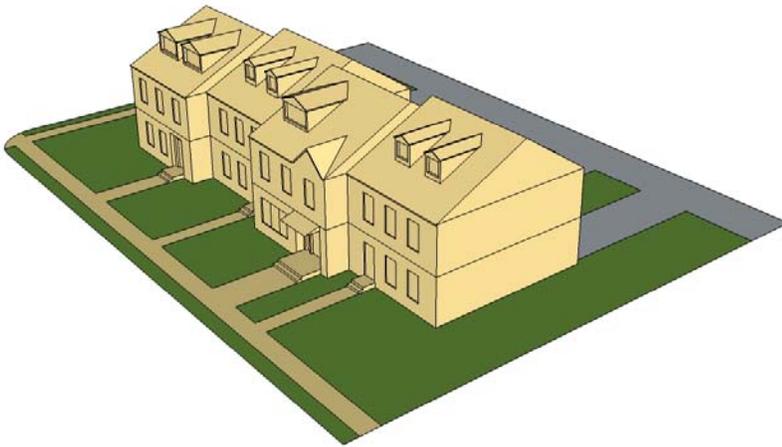
320-20.O RESEARCH/WAREHOUSE/INDUSTRIAL

320:93

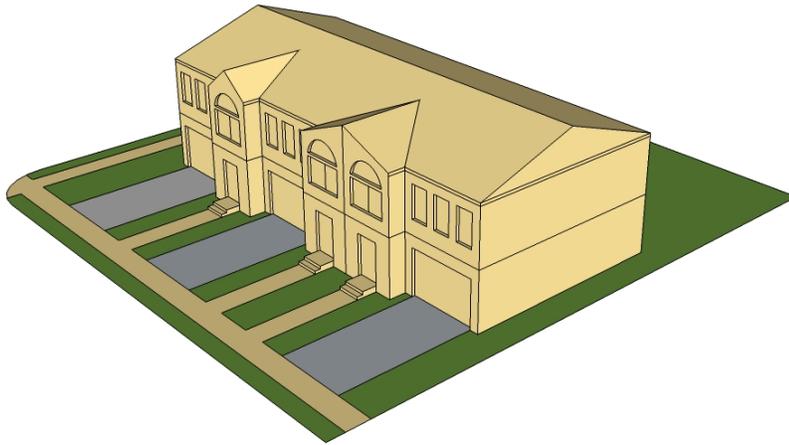


320-20.P RETAIL/COMMERCIAL

320:94



320-20.Q TOWNHOUSES



320-20.R TRIPLEX RESIDENTIAL

320:96

Section 320-21 General Design Standards

Subsections:

- 320-21.A Scale and Style
- 320-21.B Corner Lots
- 320-21.C Walls and Planes
- 320-21.D Facades
- 320-21.E Roofs
- 320-21.F Windows/Fenestration
- 320-21.G Entrances
- 320-21.H Light Fixtures
- 320-21.I Lighting
- 320-21.J Facade Materials
- 320-21.K Building Colors
- 320-21.L Soffit Emphasis
- 320-21.M Soffits
- 320-21.N Utilities
- 320-21.O Rain Gutters

320-21.A SCALE AND STYLE

- 320-21.A(1) Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context, except however, where existing development does not represent a consistent architectural style or does not incorporate a building design that reflects the historic character and architecture of Newton's central business district, buildings should instead be designed to improve the overall streetscape, relying on the design standards set forth herein.
- 320-21.A(2) As a general rule, buildings shall reflect a continuity of treatment obtained by maintaining the building scale, by maintaining consistent front setbacks, by maintaining cornice lines in buildings of the same height, by extending horizontal lines of fenestration, and by echoing architectural styles, details, design themes, building materials, and colors used in surrounding buildings where such buildings represent the historic character and architecture of Newton.

320-21.B CORNER LOTS

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

320-21.C WALLS AND PLANES

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

320-21.D FACADES

- 320-21.D(1) Buildings with more than one facade facing a public street or internal open space shall be required to provide multiple front facade treatments.

320-21.D(2) The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details. Bland wall or service area treatment of side and or rear elevations visible from the public view is discouraged.

320-21.E ROOFS

Gable roofs should utilize a minimum pitch of 9/12. Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs should provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall. Flat roofs should provide that all visibly exposed walls shall have an articulated cornice which projects horizontally from the vertical building wall plane. Other roof types should be appropriate to the building's architecture. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.

320-21.F WINDOWS/FENESTRATION

Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building, and appropriate to the setting. Windows shall be vertically proportioned wherever possible. To the extent possible, upper story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. Blank, windowless walls are discouraged. Storefronts are an integral part of a building and shall be integrally designed with the upper floors to be compatible with the overall facade character. Ground floor retail, service, and restaurant uses should have large pane display windows, framed by the surrounding wall, and shall not exceed 75 percent of the total ground level facade area.

320-21.G ENTRANCES

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

320-21.H LIGHT FIXTURES

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

320-21.I LIGHTING

Street lights shall be decorative and shall blend with the architectural style of the community. Along all commercial or mixed-use streets, parking areas, sidewalks and walkways; decorative light posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main

street. Light posts should be at least ten feet in height. In parking areas post heights may extend to a maximum of sixteen feet.

320-21.J

FACADE MATERIALS

The primary façade materials shall include either clapboard, decorative shingles with appropriate trim and detailing, stone/masonry, stucco or brick. Manufactured materials that resemble wood, stucco, brick, etc, may be used but should be of a high quality to blend in with existing historically utilized materials. Accents such as projecting, bow, bay and boxed windows are encouraged. Individual facades should generally consist of no more than three materials and/or textures.

320-21.K

BUILDING COLORS

It is recommended that a color palate be developed for each development utilizing colors that blend or compliment those in surrounding uses. Facade colors and design should vary from building to building and not be repeated within any five (5) building frontages on any street. A combination of lighter masonry and darker earth tones are appropriate for commercial brick façades.

320-21.L

SOFFIT EMPHASIS

In buildings with a soffit, the underside of the overhang is often more visible than the roof and should be articulated. The soffit should therefore receive a greater emphasis and budget than is typically afforded.

320-21.M

SOFFITS

All building soffits and overhangs shall be designed to provide shade in the summer and allow sunlight to enter the building in the winter. As such, southern and western exposures shall feature exaggerated (wider) soffits.

320-21.N

UTILITIES

320-21.N(1)

Mechanical structures shall be fully integrated with the architectural and structural design of the building in order to minimize the negative aesthetic impact upon the viewer, both from street level and as may be viewed from adjacent properties. All parts and components of cellular phone antennas, satellite dishes, television and radio antennas shall be designed to be in harmony with the architectural context and shall not be visible from the front street or sidewalk.

320-21.N(2)

All utilities shall be underground. Machinery and the mechanical controls for same, including but not limited to transformers, junction boxes, electrical meters and condensers shall be located to the side or rear of buildings and/or otherwise screened from frontages by building elements in a manner consistent with the design of the building.

320-21.O

RAIN GUTTERS

It is encouraged that storm water from roofs be collected on site and reused for irrigation and other uses that require non-potable water.

Section 320-22 Street Design Standards/Public Frontage Types

Subsections:

- 320-22.A Street Design Standards
- 320-22.B Pedestrian Realm
- 320-22.C Trash Enclosure Requirements
- 320-22.D Context Sensitive Design
- 320-22.E Minimum Design Standards For Complete Streets
- 320-22.F Public Frontage Types

320-22.A STREET DESIGN STANDARDS

The Street Design shall consider methods for creating complete streets that consist of lanes for vehicles and bicycles, as well as pedestrians. Sidewalks and landscaping along these thoroughfares are required. The following standards must apply:

- (1) The street configurations and locations shall be designed utilizing Context Sensitive Design in combination with the design standards identified herein.
- (2) Each thoroughfare type shall be dimensioned and specified as to right-of-way width, pavement width, sidewalk width, traffic lanes, parking lanes, planting treatment and other factors that may apply to both the functional and aesthetic character of the specific street as specified in the attached street sections.
- (3) All streets shall be open to the public, except for internal lanes, in order to provide access to specific uses on private property. All streets shall be improved to finished specifications prior to the occupation of the buildings.
- (4) Pedestrian spaces must have continuous paving that extends across all streets and intersections and be of a paving material which differentiates it from the street surface.
- (5) Wherever appropriate, all streets shall provide on-street, curbside parking available to the public, with the exception of any internal lanes.
- (6) The on-street parking spaces shall not be attached to any specific use but may contribute 0.5 space per space of parking requirements and may be used for additional parking needs.
- (7) The street improvements identified in this section include all infrastructure, paving base and surfaces, sidewalks, street trees, street lights, and curbs to meet Town and County standards.
- (8) The street sections are meant to be starting points for design; however minimum design standards shall apply.

320-22.B PEDESTRIAN REALM

- 320-22.B(1) Sidewalk areas must be provided along all streets and shall be properly sized for the safe and convenient movement of pedestrians through and around the area, taking into consideration such factors as: the volume of traffic on the street, the width of the roadway, and the adjoining land uses.
- 320-22.B(2) Sidewalk areas must be attractively landscaped and durably paved in conformance with any minimum landscape standards and shall be provided with adequate lighting according to lighting standards. Decorative paving materials and pedestrian scale lighting is required.
- 320-22.B(3) Traffic signage shall be consolidated and affixed onto lampposts to the maximum extent practical so as to reduce the number of poles, obstructions and visual clutter in the streetscape and pedestrian movement. All traffic signage must be in accordance with current MUTCD (Manual on Uniform Traffic Control Devices) guidelines.
- 320-22.B(4) All signal and light posts must be a consistent dark color.

- 320-22.B(5) All sidewalks and intersections must be ADA compliant.
- 320-22.B(6) Crosswalks are required at each intersection.
- 320-22.B(7) Crosswalks must be a different texture, pattern and surface from roadways and sidewalks.
- 320-22.B(8) Sidewalks shall not be asphalt and shall adhere to the Town's minimum standards for sidewalks.
- 320-22.B(9) The buffer area between the curb and sidewalk should be of a different paving material and texture than sidewalks, preferably a textured material such as pavers, brick, and/or synthetic brick.

320-22.C TRASH ENCLOSURE REQUIREMENTS

All commercial and multi-family residential uses shall provide trash enclosure and recycling facilities that adhere to the following standards:

- (1) Each structure shall be designed so as to accommodate easy, safe, and sanitary access to disposal facilities and recyclable containers.
- (2) Disposal and recycling pick-up shall be from a disposal facility, where accessible to a contracted hauler.
- (3) Disposal and recycling containers must be stored where they are not accessible to wildlife.
- (4) Disposal facilities shall either be located internally to the facility or screened from the street and the pedestrian realm with an enclosure utilizing materials that are compatible with those of the principal structure on the property. Woven wire mesh fencing is prohibited.

320-22.D CONTEXT SENSITIVE DESIGN

All streets shall be designed utilizing Context-Sensitive Design (CSD) combined with the minimum street design standards to tailor street designs to the specific situation within which the roadway is being constructed. All streets must be complete streets and provide for multiple users including pedestrian, car, bike and transit (where appropriate). The following items should be considered when designing streets, street frontages, streetscapes and pedestrian or bicycle amenities within the Town of Newton:

- (1) Context Sensitivity – considerations include land uses, users, environmental issues, goals of the community, location and intensity of use.
- (2) Geometric Flexibility – allowing width of the travel lanes, sidewalks, etc. to flex depending on traffic needs, multi-modal accommodations, existing and proposed land uses and other considerations.
- (3) Performance Flexibility – allowing flexibility of the posted speed on the roadway can accommodate the varying widths and uses of the road depending on location.
- (4) Institutional Collaboration – State, County and local officials will need to work together to create appropriate designs for roadways within the Town depending on the entity with jurisdiction over the project.
- (5) Public Outreach and Response – for high volume roadways it is very important to gather public input on the needs of the community with respect to the project. Their input should be incorporated wherever possible and practical.
- (6) Modal Balance – in order to address the needs of multiple modes of transportation, other modes may have to be addressed creatively to achieve a balance.

320-22.E MINIMUM DESIGN STANDARDS FOR COMPLETE STREETS

Street Type by Transect	Travel Lanes/Turning Lanes	Parking Lanes*	Bike Lanes (where applicable**)	Sidewalks/Buffers
Local Street (T-3)	8-10 ft. / no turn lanes	6-8 ft. on one or both sides	4 ft. (shared on street)	4-5 ft. / 2-6ft. buffer
Collector (T-3)	10 ft. / no turn lane	7-8 ft. on one or both sides	5 ft. designated on street lanes	4-5 ft. / 2-6 ft. buffer
Collector (T-4 to T-6)	10-11 ft./ 9 ft. turn lanes	8 ft. on one or both sides	5 ft. designated on street lanes	6-8 ft. / 2-4 ft.
Arterial (T-1 to T-3)	10-12 ft. / no turn lane	7-8 ft. on one or both sides	5 ft. designated on street lanes	4-5 ft. / 2-6 ft.
Arterial / Highway (T-4 to T-6)	10-12 ft. / 9 ft. turn lane	8 ft. on one or both sides	5 ft. designated on street lanes	8-10 ft. / 2-6 ft.

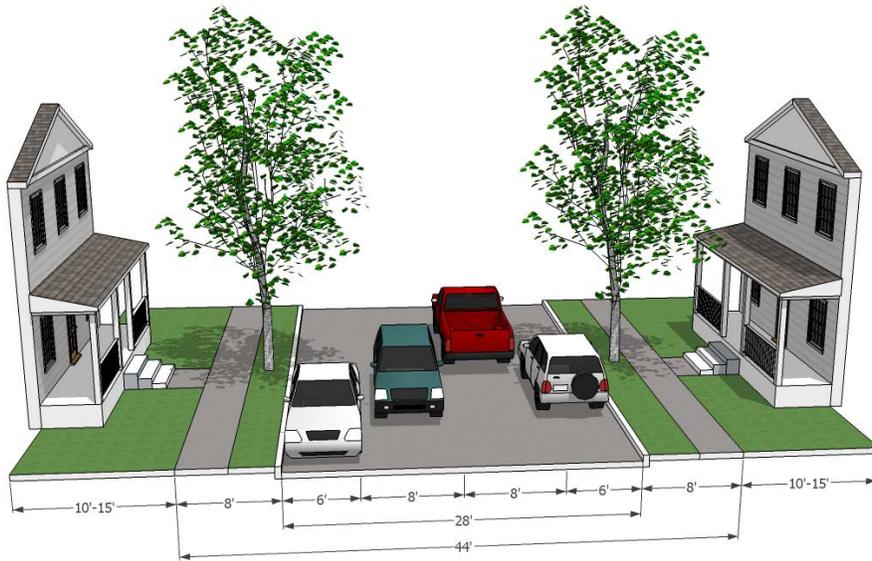
*On streets where bike lanes are proposed; parking lanes should be removed or reduced and buffers can be reduced or eliminated in order to moderate total widths.

**Proposed bike lane locations are proposed in the Bike Path Section of the report. Not all streets will have bike lanes.

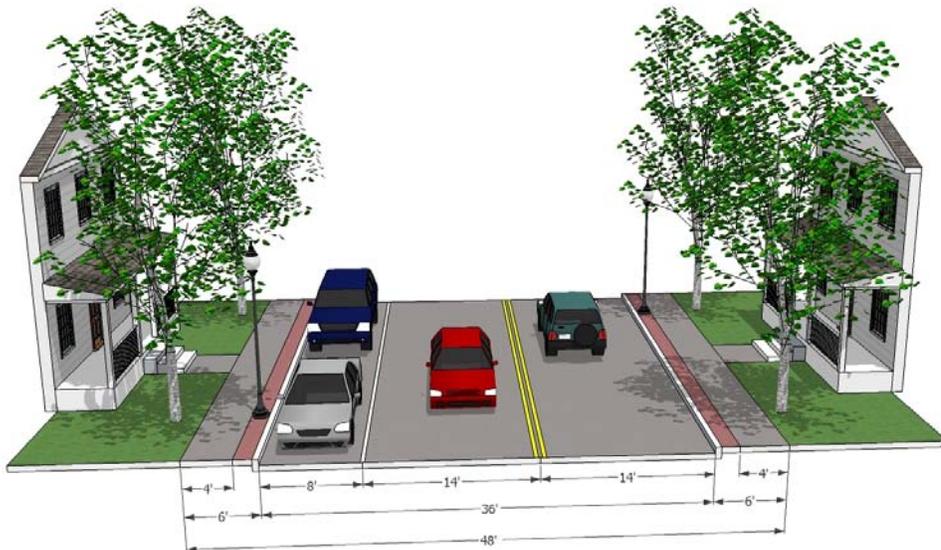
320-22.F PUBLIC FRONTAGE TYPES

The following are examples of permissible roadway types in the Town by zone. The width of the developed roadway does not necessarily reflect the right of way width of the roadway which may be greater than the roadway width in some cases. Roadways that are narrower than the typical 50 foot right of way are shown to accommodate on the ground conditions that do not permit construction of larger width roadways. Where greater amounts of right of way exist, wider roadway widths are shown.

320-22.F(1) T-3 Local Street



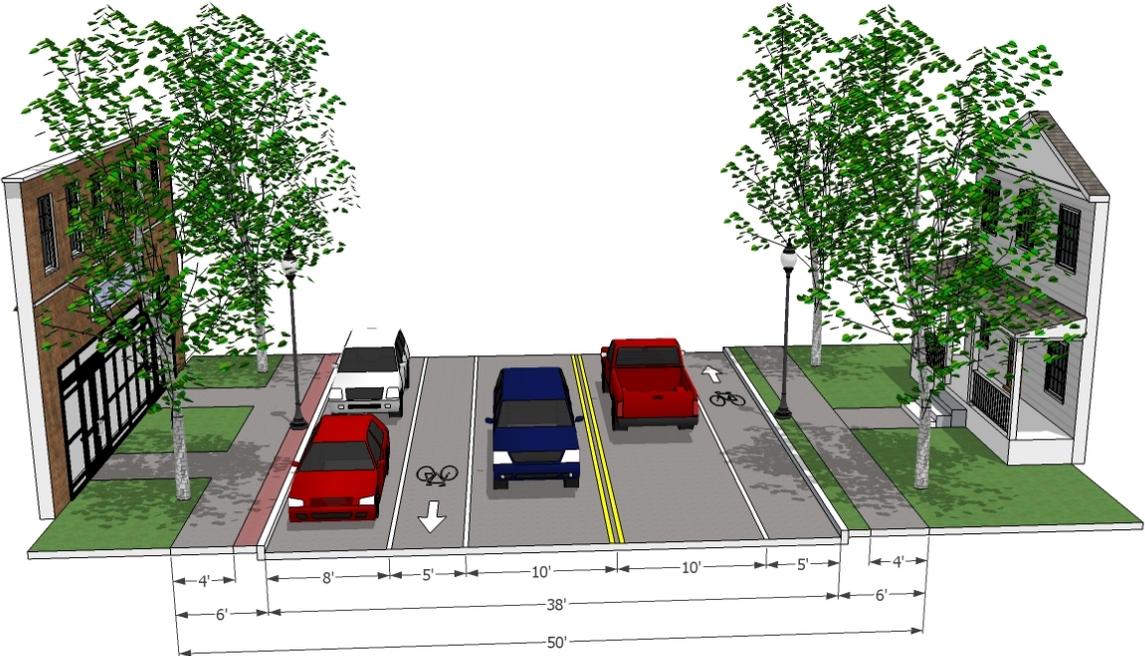
320-22.F(2) T-3 Collector



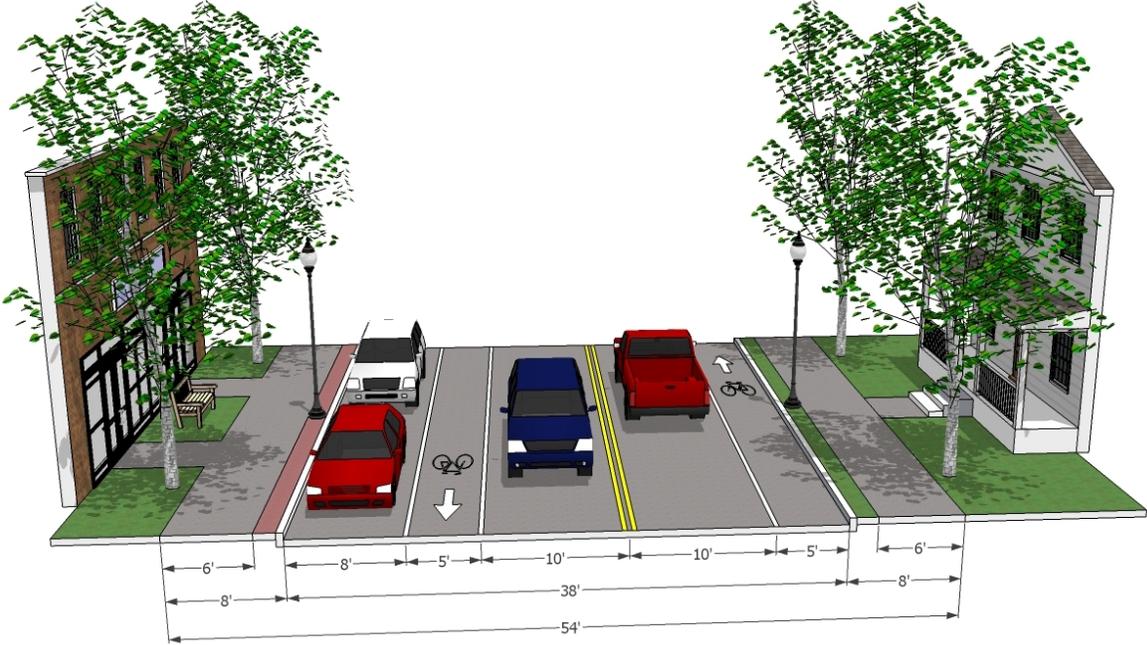
320-22.F(3) T-4 Collector



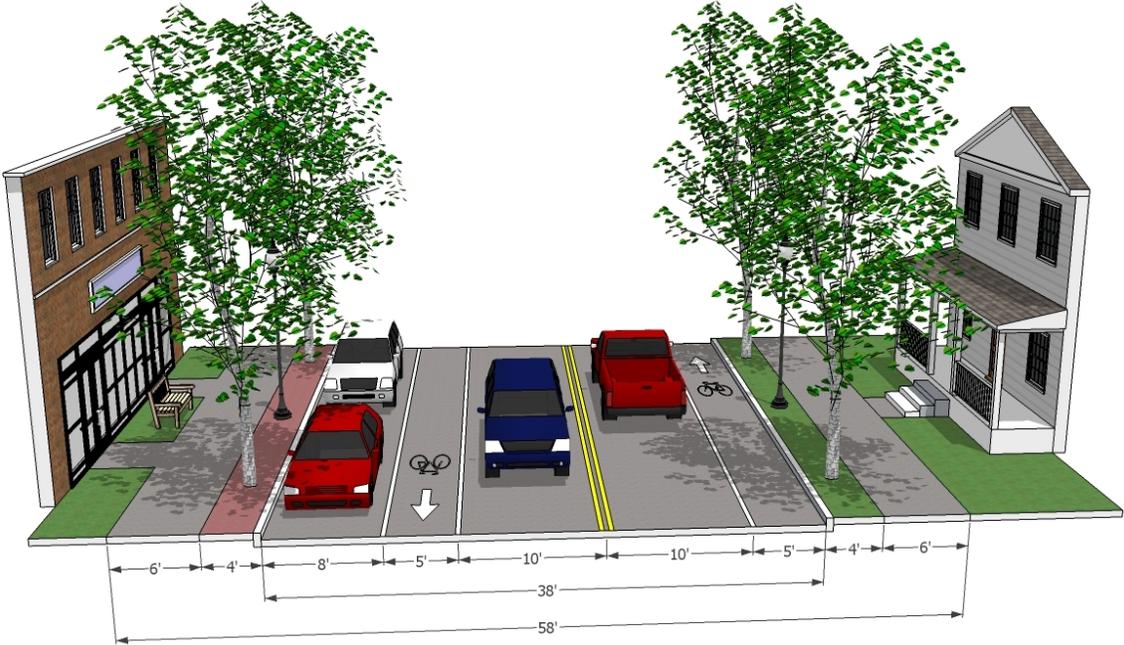
320-22.F(4) T-4 and T-5 Major Arterial – 50' Roadway



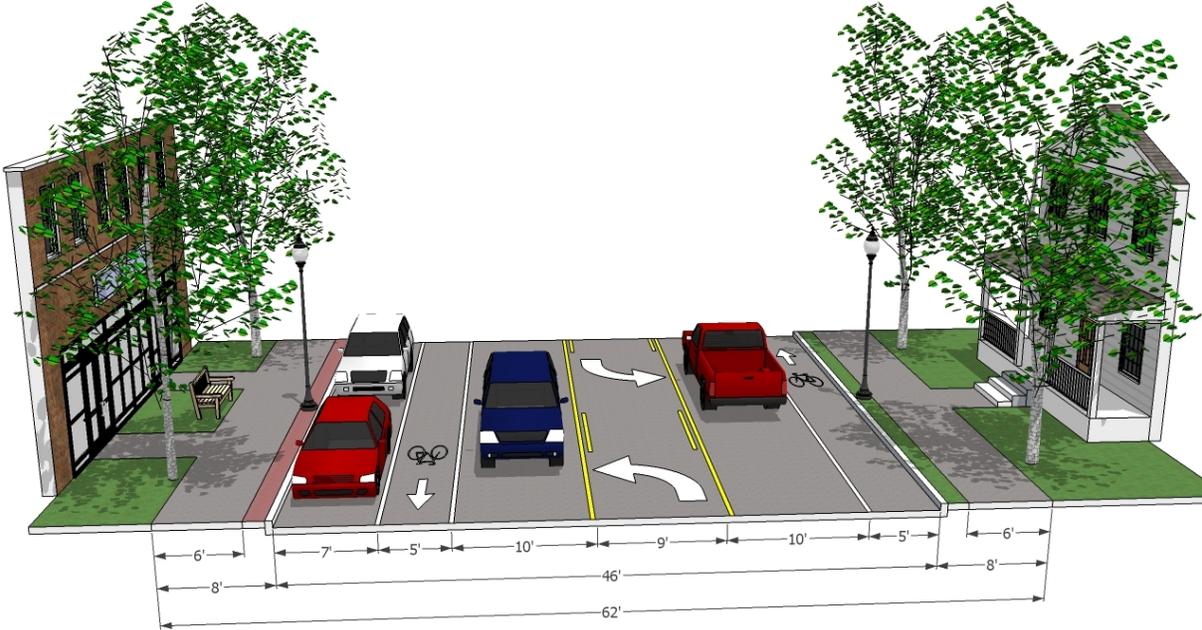
320-22.F(5) T-4 and T-5 Major Arterial – 54' Roadway.



320-22.F(6) T-4 and T-5 Major Arterial – 58' Roadway.



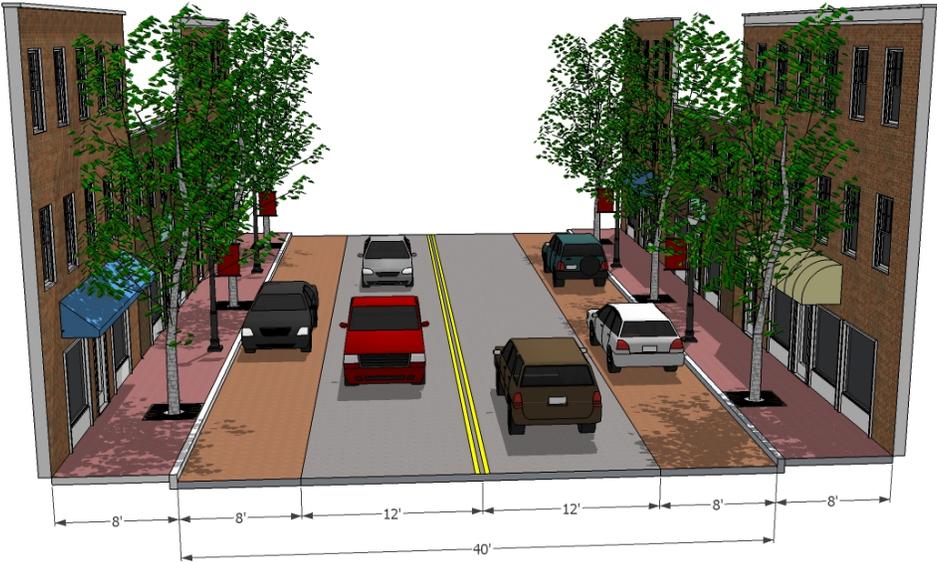
320-22.F(7) T-4 and T-5 Major Arterial With Turning Lane



320-22.F(8) Rear Alley or Internal Lane



320-22.F(9) T-5 Major Arterial



320-22.F(10) T-6 Major Arterial



Section 320-23 Parking & Driveway Standards

Subsections:

- 320-23.A Minimum Parking Requirements
- 320-23.B Shared Parking
- 320-23.C Surface Parking
- 320-23.D Structured Parking
- 320-23.E Residential Driveways

320-23.A MINIMUM PARKING REQUIREMENTS

Parking needs vary based on uses and location, access to transit and other modes of transportation. This ordinance permits flexible parking standards based on the Transect that the use is in, as well as other factors including shared parking possibilities, size of use and access to municipal parking lots. Parking requirements are based on use and Transect Zones as follows:

320-23.A(1) Parking Requirements by Transect Zone and Use

	T-2/T-3	T-4	T-5/T-6
RESIDENTIAL	2.0 / dwelling	1.5 / dwelling	1.0 / dwelling
LODGING	1.0 / bedroom	1.0 / bedroom	1.0 / bedroom
OFFICE	3.0 / 1000 sq. ft.	3.0 / 1000 sq. ft.	2.0 / 1000 sq. ft.
RETAIL	4.0 / 1000 sq. ft.	4.0 / 1000 sq. ft.	3.0 / 1000 sq. ft.
RESTAURANT	1.0 / 3.0 seats	1.0 / 3.0 seats	1.0 / 4.0 seats
LIGHT INDUSTRY	3.0 / 1,000 SF	3.0 / 1,000 SF	2.5 / 1,000 SF
Special Districts Use T-4			

320-23.B SHARED PARKING

In order to promote more efficient use of parking facilities, a parking space may be counted towards the parking requirement for two or more different uses provided that the parking is within 250 feet of the use and the use is on the shared parking factor table.

320-23.B(1) The shared parking factor illustration below shows how shared parking can be calculated for two uses within the same vicinity of one parking area. The shared parking factor is used by adding together the parking requirement for each function then dividing it by the shared factor. For example, if a residential use requires 10 spaces and retail use requires 10 spaces, the total number of 20 spaces is divided by the shared parking factor of 1.2, yielding a requirement of 17 spaces. The shared parking factor should be utilized for uses in adjacent blocks within the proximity of a shared lot. When three functions share parking, the lowest factor should be used to assure enough parking is provided.

SHARED PARKING FACTOR				
Function	with			Function
RESIDENTIAL				RESIDENTIAL
LODGING				LODGING
OFFICE		1	1.1	OFFICE
RETAIL	1.4	1.1	1.4	RETAIL
	12	1.7	1.7	
	13	1	13	
	12	12		
		1		

- 320-23.B(2) If uses do not meet the above requirements, shared parking may be provided if:
- (a) The applicant demonstrates to the Planning Board's satisfaction that demand for shared parking spaces by each use, based on time of day, will not significantly overlap; and
 - (b) No more than 75 percent of the parking spaces counted toward any use are considered as shared spaces.

320-23.C SURFACE PARKING

- 320-23.C(1) Surface parking areas shall be located to the side or rear of uses. Surface parking areas must be screened from visual access by the street or sidewalk.
- 320-23.C(2) Parking lot layout, landscaping, buffering, and screening shall be provided to minimize direct views of parked vehicles from the street right-of-way and sidewalks, and to avoid spillover light, glare, noise or exhaust fumes onto adjacent properties. Parking lots exposed to view from any adjacent street shall be screened by a minimum of a three and a half (3.5) foot decorative wall or landscape feature.
- 320-23.C(3) Interiors of surface lots shall be landscaped with trees with a minimum caliper size of three and a half (3.5) inches. One tree shall be planted for every ten (10) parking spaces and may be planted in tree wells with a diamond configuration to allow for the use of adjacent parking spaces. Appropriate growth areas for roots shall be provided.
- 320-23.C(4) Surface parking shall be screened from adjacent residential lots via wood board-on-board privacy fencing, or other fencing as deemed appropriate by the Planning Board, at least six (6) feet in height and not exceeding eight (8) feet in height, or by landscaping screening pursuant to Section 240-8.C.
- 320-23.C(5). A ten (10) foot minimum buffered planter strip is required between surface parking lots and an adjacent property line.
- 320-23.C(6) Parking lot layout should take into consideration pedestrian movement and pedestrian crossings shall be installed where deemed necessary by the Town Engineer.
- 320-23.C(7) Parking and loading areas shall be designed according to the standards of Section 240-8.

320-23.D STRUCTURED PARKING

Multi-leveled structured parking may be considered to provide additional parking on-site without using additional land area provided that it meets the following requirements:

- (1) Structured parking shall utilize the architectural vocabulary of surrounding building facades and shall be made to appear as an occupied building or utilize liner buildings.
- (2) Blank walls shall not be permitted.
- (3) Structures shall utilize design elements such as arcades, awnings, landscaping, colonnades and/or street furniture to incorporate the building into the surrounding area.
- (d) Parking entrances shall be identified through increased massing, architectural elements and/or signage to ensure the entrance is easily and safely visible from the access drive or street. Where possible, access shall be from secondary streets or alleys.

320-23.E RESIDENTIAL DRIVEWAYS

320-23.E(1) Driveways on residential lots shall be no closer than three feet to any side or rear property line, except that, on lots that are 50 feet or less in width, the Zoning Officer may permit driveways to be located no closer than one foot to a side or rear property line. In those instances where a common driveway is proposed by adjoining property owners, then no driveway offset from the common property line is required.

Section 320-24 Fencing, Landscape and Lighting Design Standards

Subsections:

- 320-24.A Fences or Walls
- 320-24.B Landscape Standards
- 320-24.C Hardscape Requirements for Streetscape
- 320-24.D Planting Requirements for Streetscapes
- 320-24.E Lighting Requirements for Streetscapes
- 320-24.F Semi-Public Edge Requirements
- 320-24.G Parking Requirements

320-24.A FENCES OR WALLS

- (1) Fences or walls in excess of 18 inches in height shall be considered as accessory uses to a principal permitted use and shall be permitted in accordance with the general standards set forth below:
- (2) Wherever possible, natural screening shall be used to achieve privacy. However, where a privacy fence appears to offer a better alternative than the absence of such fence or natural screening due to circumstances involving the characteristics of the affected properties, fences conforming to this section shall be permitted.
- (3) The finished side of all fence surfaces shall face adjacent properties.
- (4) No fence shall be erected of barbed wire or similar harmful elements, nor constructed in any manner which might be dangerous to persons or animals, except that this restriction shall not apply to farms.
- (5) No fence or wall shall be erected in a prescribed sight triangle.
- (6) No fence anywhere in a front yard, including a fence running along or approximately parallel to a side lot line within a front yard, shall be more than four feet high.
- (7) No fence, running substantially along a rear lot line, or approximately parallel thereto, or otherwise in a rear yard, shall exceed six feet in height measured from average grade corresponding to each eight-foot section of fencing. If such fence has decorative scalloped panels or pickets along its upper edge, height may be measured to the lowest point of such edge, thus allowing posts and corresponding elements to exceed the height limitation of this subsection, but in no event by more than one foot. Where a rear yard or side yard of a corner lot abuts a side lot line and front yard of an adjacent lot, then in no event shall a fence in such rear or side yard on the corner lot exceed four feet in height such portion thereof which lies parallel to or otherwise substantially alongside the front yard of the adjacent lot.
- (8) All fencing other than a stone fence, stone (or masonry) wall, or iron decorative type fence shall be constructed of wood or a material that is relatively indistinguishable from wood.
- (9) Walls of masonry or natural stone (not retaining walls), such as New England drywalls and rows of fieldstone, shall not exceed a height of four feet.
- (10) Without limitation hereto, the following fences and fencing materials are specifically prohibited:
 - (a) Barbed wire or other hazardous construction or material unless on a farm;
 - (b) Canvas, fabric or cloth fences;

- (c) Electrically charged fences unless on a farm;
- (d) Temporary fences, such as snow or silt fences, except as the latter may be necessary during development or other approved land disturbance;
- (e) Plastic slats or other inserts in woven wire fences.
- (f) Any fence, wall or similar structure as well as shrubbery screening which substantially cuts off light or air or which may cause a nuisance, dangerous condition or a substantial fire-fighting impediment shall be prohibited.
- (g) Notwithstanding Subsection 320-24.A(8), woven wire fencing may be substituted for wood or simulated wood fencing for safety, a dog run or other appropriate reason; provided, however, that the closed loop edge shall be at the top, and no part of such fencing shall lie within a front yard.
- (h) Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with (BOCA) Building Officials and Code Administrators International.
- (i) Retaining wall: Any retaining wall 48 inches or greater in height shall be designed by a licensed professional Engineer and shall require a building permit.

320-24.B LANDSCAPE STANDARDS

- 320-24.B(1) A detailed Landscape Plan in accordance with the Site Plan and Subdivision Standards shall be prepared by a Licensed Landscape Architect for all Site Plan proposals.
- 320-24.B(2) The Landscape Plan shall include the highest quality materials and, at minimum, specify type and color of pavers and other hardscape materials, type and quality of decorative lighting fixtures, specific color and material of decorative site furnishings, as well as locations and quantities of each. The Landscape Plan shall also include species, sizes, and planting plans for all vegetation.
- 320-24.B(3) All street tree types shall be recommended by a local arborist, nurseryman, or Landscape Architect acceptable to the Planning Board and shall be a type suitable for the Area's environment. Lists of suitable trees are available from the Community Forestry Council, a division of the New Jersey Division of Parks & Forestry, or the New Jersey Nursery & Landscape Association.
- 320-24.B(4) Native plants should be used before other alternatives.
- 320-24.B(5) All landscape materials planted by the developer must have a two year maintenance guarantee. If any planting materials die within two (2) years of planting, they must be replaced during the following planting season.
- 320-24.B(6) Sidewalks should enhance the pedestrian experience. Toward that end, the following must be included within the landscaping plan:
 - (a) Barrier-free access to all pedestrian space
 - (b) Use of pedestrian-scaled lighting
 - (c) Use of pedestrian-scaled signage
- 320-24.B(7) All open areas not covered by buildings, paving, and sidewalks shall be graded and landscaped.
- 320-24.B(8) Rainwater management shall be integrated into the site design. Rain water shall be captured and stored for non-potable uses.
- 320-24.B(9) All landscaped areas must be well maintained, cleared, clipped and pruned to provide a positive healthy visual character.

320-24.C HARDSCAPE REQUIREMENTS FOR STREETScape

- 320-24.C(1) Barrier-free access to all pedestrian spaces is required.

- 320-24.C(2) Vehicular travel lanes shall be constructed of asphalt. Textured pavement such as brick, synthetic brick, cobblestone, pavers, and/or stamped concrete, shall be used on all crosswalks, to act as a traffic calming device, and on internal lanes where feasible.
- 320-24.C(3) All curbing should be granite block, or a poured, brushed concrete. Asphalt curbing is expressly forbidden. Curbs shall be 6 inches in height from the final top height of the pavement.
- 320-24.C(4) Sidewalks shall be constructed of scored concrete with brick edges and dividers or textured paving materials. The paver strip along the curb edge must be brick, synthetic brick or another approved paver.
- 320-24.C(5) Crosswalks shall be of similar material and color as the paved sidewalks or textured strip and be in conformance with the street typology and pedestrian plan. Crosswalks must be of a different paving material or color than the road surface.
- 320-24.C(6) Utilities shall not be located within the planting strip.
- 320-24.C(7) Sidewalk areas shall be continuous across any driveway, including any decorative paving elements.
- 320-24.C(8) Access to any driveway shall be via a dropped curb and sloped apron. Said access shall not be provided by the use of radius curbing and an extension of the street pavement.
- 320-24.C(9) Driveway widths and curb cuts shall be kept to the minimum width necessary.
- 320-24.C(10) Parking Entrances: Entrances to off-street parking shall vary by building type and shall be located on surface parking areas located behind the primary structure.

320-24.D PLANTING REQUIREMENTS FOR STREETScape

- 320-24.D(1) All trees shall be a minimum of 2.5 inches in caliper measured at breast height (D.B.H.) and have a minimum branch height of 6 feet at time of planting for yard trees, 10 feet minimum branch height for street trees.
- 320-24.D(2) Street tree spacing is to follow the standards stated in Chapter 240.
- 320-24.D(3) Street tree planting should be strategically phased to ensure procurement of large quantities of uniform and consistently sized specimens of specifically selected species.
- 320-24.D(4) Trees should only be planted during appropriate spring and fall planting seasons to the highest arboricultural industry standards; appropriate root barriers shall be installed at the time of planting.
- 320-24.D(5) Native tree species with proven success shall be thoroughly searched by a plant broker before consideration of alternate species.
- 320-24.D(6) Street trees shall not be planted within the clear sight triangle of each intersection.

320-24.E LIGHTING REQUIREMENTS FOR STREETScape

- 320-24.E(1) A unified standard for street lighting within the area must be used. The use of a similar style to the fixtures used throughout the downtown of Newton is highly recommended to maintain continuity throughout the Town. Final approval of the fixture, pole type, and location will be made by the Planning Board.
- 320-24.E(2) Street lighting shall be placed in the textured strip between the curb and sidewalk.
- 320-24.E(3) All street lighting and exterior building lighting shall be designed to not shine upward so as to contribute to the illumination of the night sky and cause the effect known as “sky glow”.
- 320-24.E(4) All streets shall have decorative, pole-mounted lamps that are 12-14 feet in height, spaced a maximum of 40 feet on center.
- 320-24.E(5) Metal Halide (or comparable light quality) lamps are suggested for their efficiency and light quality. Mercury Vapor and high pressure sodium lighting shall not be allowed.
- 320-24.E(6) A comprehensive Lighting Plan must be provided with sufficient detail to illustrate that proper illumination is provided. The plan should illustrate all streets, all attached building lights, types of fixtures, lighting intensities, lighting patterns, filament type, shape of lens, and direction of illumination.

- 320-24.E(7) All street lights shall have illumination and uniformity ratios which do not exceed the recommendations of the Illuminating Engineering Society of North America (IESNA). All sidewalks adjacent to roadways shall maintain a minimum 0.2 footcandle coverage.
- 320-24.E(8) Adequate exterior lighting shall be provided for safety while not casting light onto adjacent properties or shine onto streets or driveways in such a manner as to interfere with or distract driver vision.
- 320-24.E(9) All lighting shall use shielded light fixtures to prevent misdirected or excessive artificial light and maximize energy efficiently.

320-24.F SEMI-PUBLIC EDGE REQUIREMENTS

- 320-24.F(1) No asphalt paving or wood decking is allowed between the building line and the curb edge. Any paved area including walkways, etc. shall have equal or greater detail than the adjacent sidewalk.
- 320-24.F(2) Every building shall have direct access from the sidewalk to the primary pedestrian ingress and egress of a building by way of a walkway separate from driveways. Materials of the walkway shall compliment the color and design of the building and the sidewalks.
- 320-24.F(3) All building frontages must be landscaped with appropriate vegetation (shrubs must measure at least 30" in height and 30" in width at the time of planting and be planted at the minimum spacing standard).
- 320-24.F(4) Fencing along all street frontages/semi-public edges shall not exceed three (3) feet in height.
- 320-24.F(5) Only decorative style fences, such as tubular steel or wrought iron type fences, are permitted along street frontages and along semi-public edges. The design of the fencing shall complement the architectural style of the building.
- 320-24.F(6) The use of native shrubs and grasses is encouraged.
- 320-24.F(7) Shade trees, flowering trees, and evergreens must be kept properly pruned.

320-24.G PARKING REQUIREMENTS

- 320-24.G(1) All Parking areas must be appropriately screened along the periphery on all sides as required.
- 320-24.G(2) Fifty percent of paved parking lots surface shall be shaded by tree canopies within fifteen years of planting. Trees shall also be planted in the required landscaped areas along the periphery of the development in order to shade and enhance adjacent property and public right-of-ways.
- 320-24.G(3) Minimum Planter size between tiers of parking shall be as follows:
- (a) Standard Parking Stall – (4-6')*
 - (b) Compact Parking Stall – (3-4')*
 - (c) Along Periphery – (6')
- * Diamond planters can be used where space doesn't permit larger planters.
- 320-24.G(4) Green parking lots reduce runoff that is discharged into local water bodies by using natural drainage landscapes. Where possible bioengineered planting strips, bioswales, and rain gardens should be incorporated to reduce the environmental impact of development.

Section 320-25 Sign Standards

Subsections:

- 320-25.A Sign Standards
- 320-25.B Sign Area Standards
- 320-25.C Construction Signage
- 320-25.D Temporary Signage and Banners
- 320-25.E Prohibited Signage

320-25.A SIGN STANDARDS

The sign standards section is intended to encourage signage which is compatible with the character of the building's architectural design and other signs and buildings within the vicinity of the business. These standards encourage efficient use of signage and minimization of visual clutter. Creativity and unique designs are encouraged that develop distinctive images using high quality craftsmanship and materials.

320-25.A(1) Number of Signs Permitted by Type

Sign Type	# of Signs if Permitted
Free Standing/ Ground Mounted	1 per building
Awning/Canopy/Façade/ Wall/ Projecting/ Blade/ Hanging	Choose any 2 per road frontage and 1 additional per non-frontage side per establishment
Directional	1 per ingress/egress
Menu Board	1 per business
Portable/Sandwich Board	1 per business
Professional /Tenant Identification	1 per building
Real Estate	1 per building
Window	1 per business
Home/Professional Occupation Sign	1 per building
Temporary Sign/Banner	1 per business for max. of 30 days
Quick Response Code (QR)	1 per business
Decorative or Open Flags	1 per business

320-25.A(2) Types of Signs Permitted by Zone

Sign Type	T1/T2	T3	T4	T5	T6	SD1-9
Free Standing/Ground Mounted	NP	NP	P	P	NP	P
Awning/Canopy/Façade/Wall/ Projecting/ Blade/ Hanging	NP	NP	P	P	P	P
Directional	NP	NP	P	P	P	P
Menu Board	NP	NP	P	P	P	P
Portable/Sandwich Board	NP	NP	P	P	P	P
Professional /Tenant Identification	NP	NP	P	P	P	P
Real Estate	P	P	P	P	P	P
Window	NP	NP	P	P	P	P
Home/Professional Occupation Sign	P	P	P	P	P	P
Temporary Sign/Banner	NP	P	P	P	P	P
Quick Response Code (QR)	NP	NP	P	P	P	P
Decorative or Open Flags	P	P	P	P	P	P

320-25.A(3) Size of Signs by Type

Sign Type	Max. Size
Free Standing/ Ground Mounted	40 square feet
Awning/Canopy	4 square feet
Façade/ Wall	1 sq. ft. per lineal foot of façade
Projecting/ Blade/ Hanging	8 square feet
Directional	4 square feet
Portable/Sandwich Board	8 square feet
Professional /Tenant Identification	12 square feet total 3 square feet per tenant
Real Estate	16 square feet
Window	6 square feet
Home/Professional Occupation Sign	2 square feet
Temporary Sign/Banner	24 square feet
Quick Response Code (QR)/ TAG Code or other similar technology code sign	1 square foot
Decorative or Open Flags	6 square feet

320-25.B SIGN AREA MEASUREMENT

- 320-25.B(1) The areas of any sign face shall be measured as the product of the horizontal width and the largest vertical width of the lettering, illustration, display or background. Where there is no geometric frame to the sign, the sign size shall be determined by creating a four-sided box around the largest illustration or lettering in the sign.
- 320-25.B(2) The sign area measurement shall not include framing, trim, molding or supporting/hanging structure used to secure sign to the building.
- 320-25.B(3) For double faced signs, only one side is considered into the measurement.
- 320-25.B(4) For sign faces that are not parallel (i.e. v-shaped signs) both faces shall be considered into the computing of sign area.

320-25.C CONSTRUCTION SIGNAGE

- 320-25.C(1) During construction, one (1) sign for each project or development phase may be displayed indicating the name of the project, developer, design professionals, general contractor, sub-contractors, financing institution, and/or public agency officials (as applicable and appropriate). Construction signage must not exceed 25 square feet. Construction signage must be removed as soon as the Certificate of Occupancy is obtained.

320-25.D TEMPORARY SIGNAGE AND BANNERS

320-25.D(1) Temporary signs or banners that do not exceed the number and size as noted above may be displayed with a zoning permit for a maximum of thirty (30) days provided that the temporary sign does not interfere with pedestrian or traffic safety.

320-25.D(2) Temporary signs for events such as elections and community events such as tricky trays, yard sales, etc. with a maximum size of three square feet may be placed in a residential zone with consent of the property owner up to 30 days prior to the event and must be removed within 48 hours after the event. Temporary signs for events such as elections and community events, with a maximum size of 16 square feet may be placed in a mixed-use, commercial or light industrial zone with consent of the property owner up to 30 days prior to the event and must be removed within 48 hours after the event.

320-25.E PROHIBITED SIGNAGE

320-25.E(1) Fluorescent-lit signage or signage with glowing paint, flashing signs, rooftop-mounted advertising signage, signage above the second floor.

320-25.E(2) Portable signs for use as permanent signage.

320-25.E(3) Feather flags.

Section 320-26 Standards & Tables

Subsections:

320-26.A Private Frontages

320-26.B Building Disposition

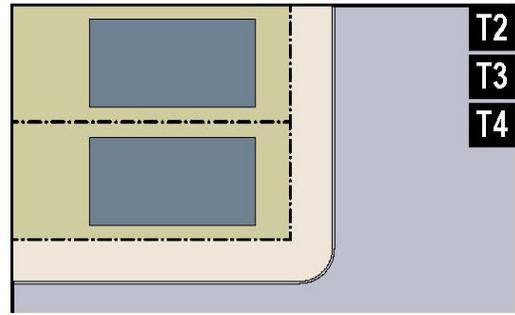
320-26.C Civic Spaces

320-26.A PRIVATE FRONTAGES

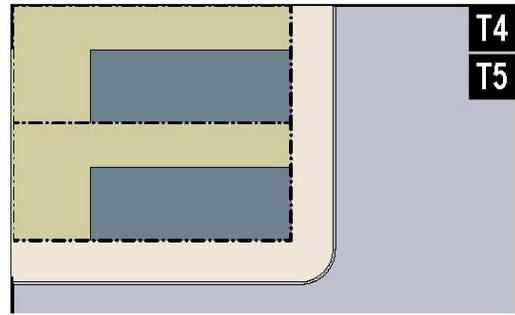
	SECTION	PLAN
	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE
<p>a. Common Yard: a planted Frontage wherein the Facade is set back substantially from the Frontage Line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep Setback provides a buffer from the higher speed Thoroughfares.</p>		 T2 T3
<p>b. Porch & Fence: a planted Frontage wherein the Facade is set back from the Frontage Line with an attached porch permitted to Encroach. A fence at the Frontage Line maintains street spatial definition. Porches shall be no less than 8 feet deep.</p>		 T3 T4
<p>c. Terrace or Lightwell: a Frontage wherein the Facade is set back from the Frontage line by an elevated terrace or a sunken Lightwell. This type buffers Residential use from urban Sidewalks and removes the private yard from public Encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: Dooryard.</p>		 T4 T5
<p>d. Forecourt: a Frontage wherein a portion of the Facade is close to the Frontage Line and the central portion is set back. The Forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other Frontage types. Large trees within the Forecourts may overhang the Sidewalks.</p>		 T4 T5 T6
<p>e. Stoop: a Frontage wherein the Facade is aligned close to the Frontage Line with the first Story elevated from the Sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor Residential use.</p>		 T4 T5 T6
<p>f. Shopfront: a Frontage wherein the Facade is aligned close to the Frontage Line with the building entrance at Sidewalk grade. This type is conventional for Retail use. It has a substantial glazing on the Sidewalk level and an awning that may overlap the Sidewalk to within 2 feet of the Curb. Syn: Retail Frontage.</p>		 T4 T5 T6
<p>g. Gallery: a Frontage wherein the Facade is aligned close to the Frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the Sidewalk. This type is conventional for Retail use. The Gallery shall be no less than 10 feet wide and should overlap the Sidewalk to within 2 feet of the Curb.</p>		 T4 T5 T6
<p>h. Arcade: a colonnade supporting habitable space that overlaps the Sidewalk, while the Facade at Sidewalk level remains at or behind the Frontage Line. This type is conventional for Retail use. The Arcade shall be no less than 12 feet wide and should overlap the Sidewalk to within 2 feet of the Curb. See Table 8.</p>		 T5 T6

320-26.B BUILDING DISPOSITION

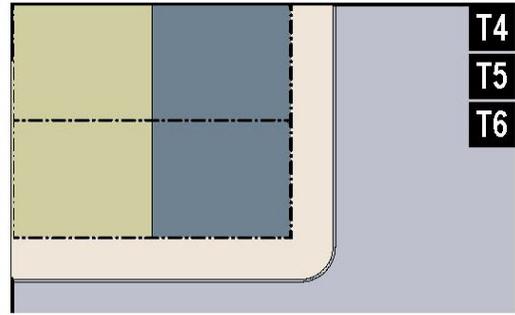
a. Edgeyard: Specific Types - single family House, cottage, villa, estate house, urban villa. A building that occupies the center of its Lot with Setbacks on all sides. This is the least urban of types as the front yard sets it back from the Frontage, while the side yards weaken the spatial definition of the public Thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well-placed Backbuilding and/or Outbuilding.



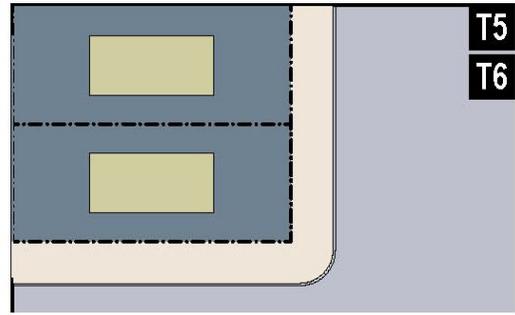
b. Sideyard: Specific Types - Charleston single house, double house, zero lot line house, twin. A building that occupies one side of the Lot with the Setback to the other side. A shallow Frontage Setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a Sideyard House abuts a neighboring Sideyard House, the type is known as a twin or double House. Energy costs, and sometimes noise, are reduced by sharing a party wall in this Disposition.



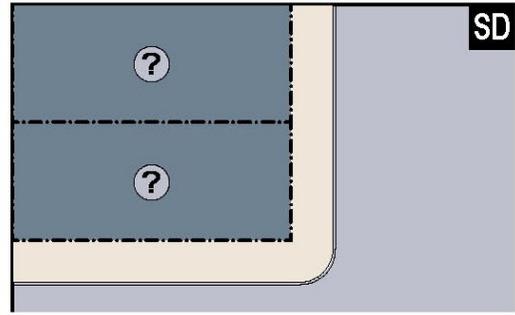
c. Rearyard: Specific Types - Townhouse, Rowhouse, Live-Work unit, loft building, Apartment House, Mixed Use Block, Flex Building, perimeter Block. A building that occupies the full Frontage, leaving the rear of the Lot as the sole yard. This is a very urban type as the continuous Facade steadily defines the public Thoroughfare. The rear Elevations may be articulated for functional purposes. In its Residential form, this type is the Rowhouse. For its Commercial form, the rear yard can accommodate substantial parking.



d. Courtyard: Specific Types - patio House. A building that occupies the boundaries of its Lot while internally defining one or more private patios. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public Thoroughfare. Because of its ability to accommodate incompatible activities, masking them from all sides, it is recommended for workshops, Lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas.

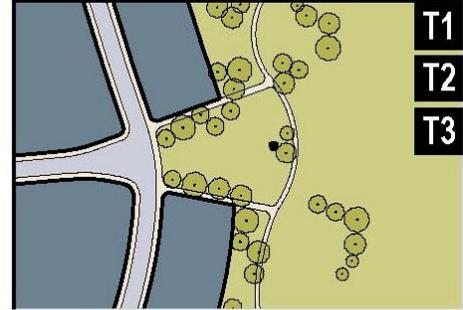


e. Specialized: A building that is not subject to categorization. Buildings dedicated to manufacturing and transportation are often distorted by the trajectories of machinery. Civic buildings, which may express the aspirations of institutions, may be included.

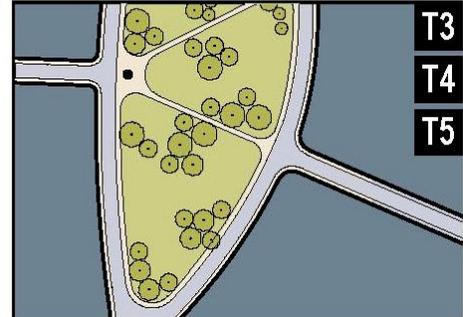


320-26.C CIVIC SPACE

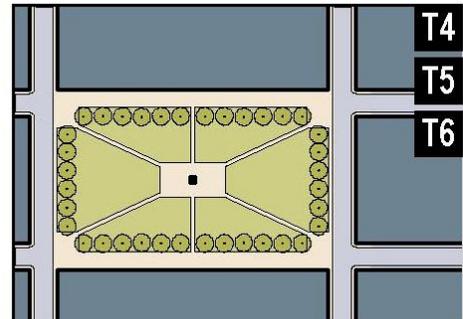
a. **Park:** A natural preserve available for unstructured recreation. A park may be independent of surrounding building Frontages. Its landscape shall consist of Paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be 8 acres. Larger parks may be approved by Warrant as Special Districts in all zones.



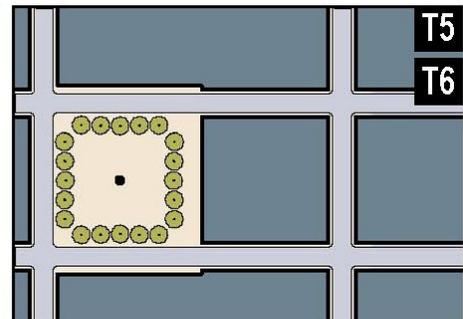
b. **Green:** An Open Space, available for unstructured recreation. A Green may be spatially defined by landscaping rather than building Frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be 8 acres.



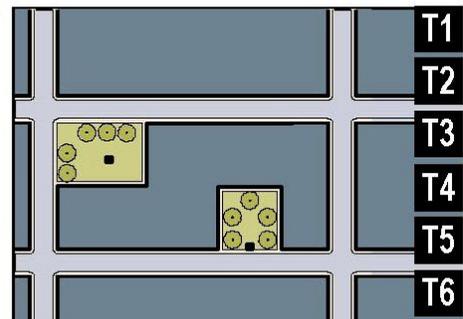
c. **Square:** An Open Space available for unstructured recreation and Civic purposes. A Square is spatially defined by building Frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important Thoroughfares. The minimum size shall be 1/2 acre and the maximum shall be 5 acres.



d. **Plaza:** An Open Space available for Civic purposes and Commercial activities. A Plaza shall be spatially defined by building Frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/2 acre and the maximum shall be 2 acres.



e. **Playground:** An Open Space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a Block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.



Section 320-27 Non-Conforming Lots, Uses & Structures

- 320-27.A Non-Conforming Lots, Uses & Structures
The following provisions shall apply to all lawfully existing non-conforming uses, structures or lots as well as all uses, structures or lots that become non-conforming by reason of any subsequent amendment to this Chapter.
- 320-27.A(1) Existing Uses, Expansion of Non- Conforming Uses. Any non-conforming use existing at the time, or created as a result, of the passage of this ordinance may be continued upon the lot or in the structure so occupied. No non-conforming use may be extended or expanded over a larger area than it occupies at the time of enactment of this ordinance.
- 320-27.A(2) Existing Structures, Enlargement or Non-Conforming Structures. Any non-conforming structure existing at the time, or created as a result, of the passage of this ordinance may be occupied, restored or repaired in the event of partial destruction thereof. Any such structure, which is substantially destroyed as deemed by the Construction Official, shall not be reconstructed or used except in conformance with this ordinance. No non-conforming structure may be enlarged or expanded to cover a larger area than it occupied at the time of the adoption of this ordinance without an appeal for variance relief.
- 320-27.A(3) Existing Lots, Non-Conforming Area, Width and Set Back.
- (a) Any lot non-conforming in area or width which was under one ownership or under contract of sale as of May, 1969 when the owner thereof owns no adjoining land, may be used as a lot for any purpose permitted in the zone, provided that the lot complies with all other regulations for the zone.
 - (b) Where a lot is situated between two lots, each of which is developed with a main building which projects beyond the established front building line and has been so maintained since May, 1969, the minimum front yard depth required for such lot may be the average of the front yard of the existing buildings. Where a lot is situated between one lot developed as described above and a vacant lot, the minimum front depth required for such lot may be the average of the front yard of the existing buildings and the established front set back.
- 320-27.A(4) Conversion to Permitted Use. After a nonconforming building or use has been converted to a permitted use, it shall not be changed back again to a nonconforming use.
- 320-27.A(5) Abandonment. If a non-conforming use has been abandoned, such use shall not be reinstated. Cessation of a non-conforming use for a continuous period of one year may be taken as prima facie evidence of an intent to abandon such use.

Section 320-28 Conditional Uses

Subsections:

- 320-28.A Professional Occupations
- 320-28.B Home Occupations
- 320-28.C Clubs, Lodges and Fraternal Organizations
- 320-28.D Residential Cluster Development
- 320-28.E Group Care Facilities and Households
- 320-28.F Motor Vehicle Sales and Repairs; Motor Vehicle Service Stations and Commercial Garages
- 320-28.G Licensed Taxicab Business Office
- 320-28.H Motor Vehicle Body Shops
- 320-28.I Motor Vehicle Body Shop
- 320-28.J Farm and Agriculture Uses
- 320-28.K Bed and Breakfast Dwelling
- 320-28.L Food and Beverage Production

Note: Uses listed as a conditional use in a particular zoning district may be permitted by the Planning Board only after it has determined that the development proposal complies with the conditions and standards set forth below for the particular use.

Each application for a conditional use shall be accompanied by a proposed site plan showing the size and location of the lot, the location of all buildings and proposed facilities including access drives, parking areas, and all streets within 200 feet of the lot.

320-28.A PROFESSIONAL OCCUPATIONS

- 320-28.A(1) Professional occupations including the office of a physician, surgeon, dentist, minister, architect, engineer, attorney, optometrist, accountant, veterinarian, or similar professional person when located within his/her dwelling or in an accessory building on the same lot, provided that:
- (a) No more than one lighted name plate or professional sign not over two square feet in area shall be permitted. The name plate shall be attached to the building.
 - (b) No more than two people, who are not residents of such dwelling, shall be employed in such office. The Planning Board shall determine whether a proposed professional use is similar to the professional uses herein authorized.
 - (c) Off-street parking shall be provided at the rate of one space per 200 square feet of office space in addition to the parking required for the residential use. At a minimum, one space per employee and one space for client parking are required.
 - (d) A zoning permit shall be required prior to the establishment of any professional occupation.

320-28.B HOME OCCUPATIONS

- 320-28.B(1) The following conditions shall apply:
- (a) No person other than members of the family residing on the premises plus up to two outside employees shall be engaged in such occupation. The person whose occupation is being operated from the home shall reside on the premises.
 - (b) Use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more

than 25% of the floor area of the principal structure or 50% of the floor area within an accessory building on the lot shall be used in the conduct of the home occupation. .

- (c) Such occupation may be pursued in the principal dwelling structure or accessory building, but shall give no external evidence of non-residential use other than a small name plate sign not to exceed two square feet in size attached to the structure, and shall not display products visible from the street.
- (d) No traffic or parking shall be generated in excess of three passenger automobiles at any one time in addition to those used by the owner or tenant, all of which must be parked off-street in properly designated spaces. No off-street parking shall be permitted in the front yard setback or in front of the building.
- (e) No mechanical or electrical equipment is used that will be detectable to the normal senses or that will create electrical or radio or television interference.
- (f) No goods, chattels, materials, supplies or items of any kind can be delivered either to or from the premises in connection with the home occupations except in a car, station wagon, van or other four wheeled vehicle, i.e. FedEx truck or UPS truck
- (g) No occupation involving the general retail sale of merchandise to the public, as distinguished from the filling of prior orders for specific merchandise, shall be permitted.
- (h) There shall be no more than one home occupation in any one dwelling unit.
- (i) A zoning permit shall be required prior to the establishment of any home occupation with the exception of home offices as defined in Section 320-3.

320-28.C CEMETERIES

320-28.C(1) Cemeteries shall be subject to the following conditions:

- (a) Any structures or service facility associated with cemetery purposes shall not be located within 100 feet of any abutting non-cemetery lot lines.
- (b) Burial plots shall not be located within 50 feet of any existing residential lot lines.

320-28.D CLUBS, LODGES AND FRATERNAL ORGANIZATIONS

320-28.D(1) Clubs, lodges and fraternal organizations shall be subject to the following conditions:

- (a) No building or part thereof or any parking or loading area shall be located nearer than 25 feet to any street or lot line.
- (b) No alcoholic beverage license is issued or shall be used in connection therewith.
- (c) A ten foot wide landscaped buffer, screen or fence shall be placed along abutting residential side or rear lot lines to screen from view the parking and/or loading zones of such conditional use.

320-28.E RESIDENTIAL CLUSTER DEVELOPMENT

320-28.E(1) Residential cluster development for single family dwellings may be applied for in accordance with the provisions of this section to modify bulk and area requirements specified in the T-2 and T-3 districts.

320-28.E(2) The total number of lots erected in a residential cluster development shall not exceed the maximum number of lots that can be created by subdividing the property in conformance with the area and lot requirements as set forth in the T-2 and T-3 districts, whichever is applicable. A conceptual sketch plan shall be submitted in order to establish the maximum number of lots that can be counted for clustering purposes. In computing the maximum number of lots that may be created, any proposed lot

occupied by public utility easements or otherwise encumbered by steep slopes, flood hazard areas, freshwater wetlands or public utility easements to the extent that these constraints would render a proposed lot unbuildable, shall not be considered as a lot in the preparation of the sketch plan.

- 320-28.E(3) Any residential cluster development must contain a minimum of ten acres. Lots may be reduced in size, provided that a minimum of 40% of the total tract shall be devoted to common open space.
- 320-28.E(4) The common open space shall be accessible to all residents of the residential cluster. The maximum feasible number of lots shall be adjacent to the common open space as is reasonably possible. The configuration of common open space should be so arranged that connections can be made to existing or future adjacent open spaces and to contiguous publicly owned open space. Sections of common open space not connected to other sections of common open space shall be discouraged, unless required by particular site constraints. The common open space shall maximize the sense of openness of the residential cluster when seen from public roads and other vantage points in abutting developments, if applicable.
- 320-28.E(5) A developer may apply to the Planning Board for permission to donate common open space land derived from application of a cluster technique as provided for below. Any disposition of common open space shall be subject to the requirement that the common open space will be retained and maintained for open space use in perpetuity.
- (a) To a homeowners' association which shall be created before homes are sold, or
 - (b) To the Town for public purposes with the consent and approval of the Town Council.
- 320-28.E(6) In situations where the parcel of land proposed for a residential cluster development is part of a larger tract in the same ownership, a conceptual plan of the entire tract showing how the contiguous undeveloped land could be developed shall be provided.
- 320-28.E(7) Before approving a residential cluster development, the Planning Board shall determine that the proposed residential cluster development meets all requirements of this Chapter and the land subdivision Chapter of the town.

320-28.F GROUP CARE FACILITIES AND HOUSEHOLDS

- 320-28.F(1) A group care facility is a dwelling unit housing persons unrelated by blood or marriage and operating as a group family household such as but not by way of limitation, halfway houses, recovery homes, homes for orphans, foster children, the elderly, battered children and women, specialized treatment facilities providing less than primary health care, intermediate care facilities, supervised apartment living, hostels or any other group of individuals not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit in an intentionally structured relationship providing organization and stability. Such group care facility or family household is permitted subject to the following express conditions:
- (a) Any such facility shall be limited to eight such persons plus not exceeding four staff members.
 - (b) The residence shall have at least two means of egress.
 - (c) There shall be at least 425 square feet of open yard area, exclusive of parking areas, buffer strips, or gardens, for each inhabitant of the facility including staff.
 - (d) Off-street parking shall be provided on the basis of one space for each staff member and one space for each occupant. Parking areas shall be constructed in compliance with Subsection 320-8. Parking spaces shall be located at least 20 feet from any principal structure, unless located in a building.
 - (e) There shall be a buffer strip on all parcel lines, except public street lines, at least 15 feet in width or 25 feet when abutting existing residential uses, which shall be landscaped so as to create a visual screen at least four feet in height at

the time of planting. The planting shall be in double alternate rows so as to assure maximum privacy. Such planted buffer strip shall be maintained at all times.

- (f) Access shall be adequate for all emergency vehicles and there shall be a hydrant located within 600 feet of the premises.
- (g) Where by statute up to six persons are specifically permitted in one or more of the types of facilities specified above, the statutory number of persons shall be permitted subject, however, to compliance with paragraphs "b" through "f" of this subsection. Where by statute certain of such uses are permitted in all residential zones, they shall be subject to paragraphs "b" through "f" of this subsection.

320-28.G LICENSED TAXICAB BUSINESS OFFICE

Offices used for conducting licensed taxicab business shall be subject to the following regulations:

- 320-28.G(1) One off-street parking space shall be provided for each licensed taxicab.
- 320-28.G(2) Storage parking areas for taxicabs shall be suitably screened from public view at the rear and side lot lines. No taxicab storage other than for one such vehicle shall be permitted in the front yard or in front of the building used to conduct such business.

320-28.H MOTOR VEHICLE SALES AND REPAIRS; MOTOR VEHICLE SERVICE STATIONS AND COMMERCIAL GARAGES

Motor vehicle service stations, motor vehicle commercial garages, motor vehicle sales and repairs, except motor vehicle wrecking yards, shall be permitted provided that the following conditions are met:

- 320-28.H(1) At no time shall more than five motor vehicles which have been involved in accidents or which are in such condition they cannot operate under their own power, be stored, maintained or be permitted to stand upon any premises.
- 320-28.H(2) This provision, however, shall not apply to such vehicles if kept in a building and further provided that no such vehicle or vehicles shall be stored, kept or maintained on any premises for a period of longer than 30 days, except within a building or enclosure as hereinabove provided.
- 320-28.H(3) Where a motor vehicle service station is duly licensed to provide propane gas tank refilling services, such service shall be accessory to the service station principal use. Such tank refilling activity shall be located on the lot so as not to impede safe traffic flow on the site and shall be adequately fenced and screened from abutting properties.

320-28.I MOTOR VEHICLE BODY SHOPS

Motor vehicle body shops shall be permitted, subject to the following provisions:

- 320-28.I(1) They must be accessory to either motor vehicle sales, motor vehicle repairs, services stations or commercial garages.
- 320-28.I(2) At no time shall more than five motor vehicles which have been involved in accidents or which are in such condition they cannot operate under their own power, be stored, maintained or be permitted to stand upon any premises.
- 320-28.I(3) This provision, however, shall not apply to such vehicles if kept in a building and further provided that no such vehicle or vehicles shall be stored, kept or maintained on any premises for a period of longer than 30 days, except within a building or enclosure as hereinabove provided.

320-28.J FARM AND AGRICULTURAL USES

In the districts where farm and agricultural uses are permitted, the following additional provisions governing their use shall apply:

- 320-28.J(1) Such uses are conducted upon a lot not less than five acres in area.

- 320-28.J(2) No building or structure used for shelter or enclosure of fowl, game, horses, farm livestock, or adult dogs shall be closer to any property line than 200 feet.
- 320-28.J(3) Buildings used for the shelter of fowl of any kind shall have a maximum usable floor area of 2,000 square feet for the first ten acres and 5,000 additional square feet for each additional acre.
- 320-28.J(4) One domestic horse for the personal use of the occupants of the residence may be maintained on any lot at least three acres in size.
- 320-28.J(5) The display for sale of products grown or raised by the owner, tenant or lessee on a roadside stand shall only be permitted where:
 - (a) The sale of such products is within the confines of the property upon which they have been grown or raised.
 - (b) The place of sale or storage of any such products, whether of a permanent or temporary nature, shall not be closer than 100 feet to any side lot line.
 - (c) The sale of any such products shall not have a deleterious effect on adjoining properties by reason of nuisance or health hazard.
 - (d) The sale of any such products shall also require a suitable amount of off-street parking and loading space as required in the general off-street parking section of this Chapter.

320-28.K BED AND BREAKFAST DWELLING

A bed and breakfast dwelling shall meet the following conditions and standards:

- 320-28.K(1) Application. The lot shall be located within the locally designated historic district.
- 320-28.K(2) Use limitations.
 - (a) The bed and breakfast facility shall have no less than two rooms for guest occupancy.
 - (b) Guest rooms shall not contain cooking facilities.
 - (c) The owner, operator or manager of the bed and breakfast facility shall reside on the premises
- 320-28.K(3) Bulk standards. A bed and breakfast facility shall conform to the zone district's dimensional and area requirements for a residential use.
- 320-28.K(4) Parking. In addition to the required off-street parking for the principal use, one parking space for each guest room and one space for each employee of the facility shall be provided. Reduction in the required number of off-street parking spaces may be permitted by the Planning Board at the time of site plan review, upon demonstration that shared parking or an alternate site location is feasible, adequate and available for the term of the bed and breakfast use.
- 320-28.K(5) Additional design standards.
 - (a) Unless required for the principal use, a bed and breakfast dwelling does not require an off-street loading space.
 - (b) Landscaping or screening shall be provided to adequately shield from view rear yard activities including required off-street parking spaces from adjoining residential properties.
 - (c) No parking shall be permitted in the required front yard set back or in front of the building containing a bed and breakfast.
 - (d) The architectural character of any structure to contain a bed and breakfast facility shall be consistent with the scale and visual character of surrounding properties. Any improvements to the structure shall conform with the design guidelines for the historic district.
- 320-28.K(6) No freestanding ground signs shall be permitted. One wall or hanging business sign limited to eight square feet shall be permitted, provided it also conforms to other applicable historic district design guidelines.

320-28.L

FOOD PRODUCTION

Food production facilities shall meet the following conditions and standards when permitted as a conditional use:

320-28.L(1)

Use limitations:

- (a) There shall be no external smells, odors, smoke, glare or otherwise visible or detectable evidence of the food production taking place.
- (b) Food production facilities must maintain a minimum 25 foot setback from residential properties and said 25 foot setback shall contain buffer plantings as per Section 240-7.B Specific Design Standards.

Section 320-29 AFFORDABLE HOUSING

Subsections:

- 320-29.A Applicability
- 320-29. B Administration
- 320-29.C Program Fee Requirements
- 320-29.D Affordability Criteria
- 320-30.E Residential Preference: Affirmative Marketing Criteria
- 320-30.F Distribution and Location Criteria
- 320-30.G Building Schedule
- 320-30.H Affordability Requirement for Residential Conversions

320-29.A APPLICABILITY

- 320-29.A(1) The inclusionary housing provisions of this Chapter apply to all development proposed to be undertaken on inclusionary sites zoned to provide for an affordable housing component.
- 320-29.A(2) In addition to the criteria outlined herein for affordable units, at least 50% of all affordable units in each development shall be affordable to low-income households.

320-29.B ADMINISTRATION

Administration. Newton has contracted with the State of New Jersey's Affordable Housing Management Service for administration of affordability controls and other matters related to the marketing, tenancy, sale and monitoring of compliance with various requirements associated with low- and moderate-income housing provisions of this Chapter. The Affordable Housing Management Service shall be operational within 90 days for issuance of any Certificate of Occupancy for a development containing low- and moderate-income housing. Depending on the needs found in Newton, the following services are provided:

- (1) Assisting with marketing of Newton's affordable housing units.
- (2) Establishing a screening process for potential home buyers or tenants based on income eligibility.
- (3) Maintaining eligibility lists.
- (4) Referring eligible home buyers and renters to available units.
- (5) Determining maximum resale prices or rents.
- (6) Establishing procedures to ensure that affordable housing units continue to be occupied by and affordable to low- and moderate-income households for the restricted time frame.
- (7) Providing housing counseling services to potential home buyers.
- (8) Assisting households through settlement procedures.

320-29.C PROGRAM FEE REQUIREMENTS

- 320-29.C(1) The Affordable Housing Management Service shall require of applicants seeking final approval for development projects with low- and moderate-income dwelling units an initial registration fee at the time of issuance of a certificate of occupancy.
- 320-29.C(2) Upon resale or re-rental of such units, a renewal fee shall be assessed, payable at the time of issuance of the Certificate of Occupancy in the case of a resale, or at the time of execution of a rental agreement in the case of a rental unit.
 - (a) The following fee schedule is currently in effect:
 - [1] Initial contract fee (sales and rentals) per new unit, to be charged to developer: \$300.
 - [2] Resale occupancy, to be charged to seller at closing: \$150.
 - (b) The fee schedule will be reassessed annually and revised as needed. The resale fee in effect at the time of each sales transaction closing shall prevail at the next resale.
- 320-29.C(3) Rental occupancies will be charged to the property owner/landlord at the rate of 2% of the individual unit's annual rent at the time of vacancy.
 - (a) Monthly rent of $\$325 \times 12 \times 2\% = \78 fee.
 - (b) Monthly rate of $\$400 \times 12 \times 2\% = \96 fee.
- 320-29.C(4) Projects receiving funding from the NJDCA Neighborhood Preservation Balanced Housing Program will be charged internally for initial occupancy. All subsequent resales and rentals will be charged as noted above.
- 320-29.C(5) Initial contract fees for sales and rentals will be billed and collected on signing of the agreement with Newton. Newton shall have an option of paying for its entire unit inventory at the prevailing fee at the time of initial contract or of negotiating an installment plan. If payment is delayed, Newton or the developer will be charged the initial contract fee in effect at the time of payment. Subsequent reoccupancy fees will be billed and collected at the time of sale or lease agreement (rental).

320-29.D AFFORDABILITY CRITERIA

- 320-29.D(1) In order to ensure that both low- and moderate-income units are affordable by a range of households within each household size, the average price of low- and moderate-income units within an inclusionary development shall be, as best as is practicable, affordable to households at 57.5% of the median income.
- 320-29.D(2) The following range of affordability for purchased housing shall be required for every 20 low- and moderate-income units:
 - (a) Low:
 - [1] One at 40% to 42.5%.
 - [2] Three at 42.6% to 47.5%.
 - [3] Six at 47.6% to 50%.
 - (b) Moderate:
 - [1] One at 50.1% to 57.5%.
 - [2] One at 57.6% to 64.7%.
 - [3] One at 64.8% to 68.5%.
 - [4] One at 68.6% to 72.5%.
 - [5] Two at 72.6% to 77.5%.
 - [6] Four at 77.6% to 80%.
- 320-29.D(3) For-sale dwellings. Monthly cost of shelter, to include mortgage (principal and interest), taxes, insurance and homeowner's or condo association fees, shall not exceed 28% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development. Homeowner's or condo association fees for low- and

moderate-income units can be increased by an annual percentage not to exceed the CPI housing component only for the region in which the Town of Newton is located.

320-29.D(4) For-rental dwellings. Monthly cost of shelter, to include contract rent and utilities (gas, electric, oil, water and sewer), shall not exceed 30% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development.

320-29.D(5) For purposes of relating affordability to household size, households of the following size shall be assumed to occupy units of the following size, and sale or rental price shall not be affected regardless of the size of the household actually occupying the unit:

	Number of Bedrooms	Number of Occupants
	0	1
	1	2
	2	3
	3	5
	4	7

320-29.E RESIDENCY PREFERENCE: AFFIRMATIVE MARKETING AREA

320-29.E(1) For rehabilitated housing units, eligible persons who reside in the municipality shall have preference over those who do not reside in the municipality.

320-29.E(2) For newly constructed units, there shall be an occupancy preference to low- and moderate-income households that reside or work in the Counties of Sussex, Bergen, Hudson and Passaic.

320-29.E(3) For housing unit resales and rental/re-rentals, affirmative marketing area and occupancy preference shall be expanded to include eligible persons who live or work in Essex, Morris, Union and Warren Counties.

320-29.F DISTRIBUTION AND LOCATION CRITERIA

320-29.F(1) To the extent reasonably attainable, the low- and moderate-income units shall be situated generally so as not to be in less desirable locations than other units in the development and shall be no less accessible to the common open space and public facilities, if provided, than the other units.

320-29.F(2) At a minimum, 35% of the low- and moderate-income units shall be two-bedroom units, 15% shall be three-bedroom units, and no more than 20% may be efficiency units.

320-29.F(3) No more than 25% of the Town's total fair share obligation after credits and adjustments may be age-restricted for the elderly. The Planning Board shall monitor applicant requests for any age-restricted low- or moderate-income units to ensure any preliminary approval granted does not cause the Town to exceed the total twenty-five-percent cap on such units.

320-29.G BUILDING SCHEDULE

320-29.G(1) The low- and moderate-income units shall obtain certificates of occupancy in tandem with the market rate units according to the following schedule:

	Percentage of Market Housing Unit Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
	Up to 25%	0% (none required)
	25% + 1 unit	10%
	50%	50%
	75%	75%
	90%	100%
	100%	—

320-29.G(2) If the number of low- and moderate-income units to be provided includes a fraction, the number shall be rounded up. If the number of market-rate-income units permitted includes a fraction, the number shall be rounded down.

320-29.H AFFORDABILITY REQUIREMENT FOR RESIDENTIAL CONVERSIONS

320-29.H(1) In those development applications involving the conversion of a nonresidential structure into a residential use containing more than 25% dwelling units, an inclusionary set-aside requirement of 10% of the total dwelling units to be created from such conversion shall be affordable to low-and moderate-income families according to the guidelines contained herein.

320-29.H(2) Development applications seeking a market-rate residential use variance for other than single-family detached dwellings and containing either a gross density of four or more units per gross acre or more than 25 units shall be granted only with a minimum ten-percent set-aside for low- and moderate-income housing. If, however, the use variance grant results in a gross density of six or more units per acre, then the low- and moderate-income housing set-aside requirement shall be increased to 20% of the total units approved.

Section 320-30 Wireless Communication Facilities

Subsections:

- 320-30.A Purpose
- 320-30.B Definitions
- 320-30.C Conditional Permitted Uses
- 320-30.D Existing Tower and Structures
- 320-30.E Design Standards for Towers and Antennas
- 320-30.F General requirements for Towers and Antennas
- 320-30.G Site Plan Submission and Approval Requirements
- 320-30.H Existing Towers
- 320-30.I Abandonment and Removal

320-30.A PURPOSE

320-30.A(1) The purpose of this section is to create the opportunity to locate state of the art wireless telecommunications facilities in areas where there will be either minimal or no appreciable adverse impact on the character of the Town. The intent of this section is to limit the location of such facilities to areas which are acceptable to communications companies wishing to provide services to ensure competition is fostered among local wireless service providers, to ensure opportunities for economic development are created, and to ensure local government benefits from services by telecommunications providers. Further, the purpose of this section is to establish general guidelines for the siting of wireless communications facilities including towers and antennae. The goals of this section are to:

- (a) Encourage the location of towers in specific areas within the Town.
- (b) Minimize the total number of towers constructed within the Town.
- (c) Strongly encourage the joint use of new and existing tower sites among telecommunications providers.
- (d) Enhance the ability of telecommunications providers to provide such services to the community quickly, effectively and efficiently.
- (e) Exempt from the provisions hereof noncommercial amateur radio antennae and structures which attend private residences.
- (f) Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- (g) Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques.
- (h) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town of Newton shall give due consideration to the Master Plan, the Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.

320-30.B DEFINITIONS

320-30.B(1) Definitions shall include the following:

- (a) Antenna shall mean any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or television signals.
 - [1] FAA shall mean the Federal Aviation Administration.

- [2] FCC shall mean the Federal Communications Commission.
- (b) Height. When referring to a tower or other structure, "height" shall mean the distance measured from the lowest finished grade of the base of the tower to the highest point on the tower or other structure, including the base pad and any antenna or other appurtenances.
 - (c) Pre-existing towers and pre-existing antennae shall mean any tower or antenna for which a zoning permit has been issued prior to the effective date of this section.
 - (d) Stealth tower structure shall mean man made trees, clock tower, bell steeples, light poles and other similar alternative design mounting structures that camouflage and/or conceal the presence of antennae or towers.
 - (e) Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telephones, radio, beepers, pagers, and similar communications purposes including self-supporting lattice towers, guyed towers or monopole towers. The term includes but is not limited to radio and television transmission towers, microwave towers, common carrier towers and cellular or other wireless telephone towers. The term also includes the structure and any support thereof.
 - (f) Wireless communications facilities shall mean any structure or group of structures including but not limited to towers and antennae, designed and constructed for the purpose of facilitating communications for radios, beepers, pagers, mobile telephones or any other similar devices.

320-30.C CONDITIONALLY PERMITTED USES

320-30.C(1) Wireless communications facilities including towers and antennae shall be conditionally permitted in the T-1 and T-2 zones, subject to the following specific conditions and standards:

- (a) The property shall be owned, leased or otherwise controlled by the Town of Newton, County of Sussex or a public college, provided a license or lease authorizing such antenna or tower has been approved by the applicable agency. The decision to extend such lease shall be vested solely with the applicable agency and shall not be governed by this section.
- (b) Maximum height shall be 120 feet except where more than one set of commercial transmitting/receiving antennae are collocated on a tower, the total height of the tower shall not exceed 160 feet, measured as the overall height including antennae and other appurtenances.
- (c) Minimum lot size shall be six acres.
- (d) Minimum front yard setback shall be 50 feet or the height of the structure, whichever is greater.
- (e) Minimum side yard setback shall be 50 feet or the height of the structure, whichever is greater.
- (f) Minimum rear yard setback shall be 50 feet or the height of the structure, whichever is greater.
- (g) Minimum distance to residential structures, public or private schools, or houses of worship shall be 750 feet or 300% of the height of the tower, whichever is greater.
- (h) The parcel shall have either:
 - [1] A minimum of 700 linear feet of road frontage on a State highway and a minimum of 100 linear feet of road frontage on a municipal road with a portion of the property being at elevation 835 or higher, or
 - [2] A minimum of 1,500 feet of road frontage on a County road and a minimum of 1,000 linear feet of road frontage on a municipal road with a portion of the property being at elevation 700 or higher.

- (i) At least one corner of the subject property must be located at the intersection of either a State highway and a municipal road, or a County road and a municipal road.
- (j) The minimum height of security fence shall be six feet and the maximum height shall be eight feet, exclusive of barbed wire on top.

320-30.C(2) Equipment shelters constructed in association with antennae or towers located on properties as described above shall maintain a maximum 15 foot distance from the base of the structure and shall be appropriately landscaped to minimize visual impact on neighboring properties. In all other zones in the Town, wireless communications facilities as defined herein shall not be considered as either permitted or conditional uses.

320-30.C(3) Existing structures located on lands owned or otherwise controlled by the Town of Newton, or private water companies, the County of Sussex, the State of New Jersey or the United States of America, may be utilized for the placement of antennae subject to the following conditions:

- (a) The added equipment shall not extend higher than 25 feet above the existing structure upon which said equipment is to be placed.
- (b) The added equipment shall not protrude more than five feet beyond the existing sides of the structure and must not violate existing setbacks.
- (c) Equipment shelters constructed in association with antennae or towers located on an existing structure as described above shall maintain a minimum 15 foot distance from the base of the structure and shall be appropriately landscaped to minimize visual impact on neighboring properties.

320-30.D EXISTING TOWER AND STRUCTURES

320-30.D(1) Such towers which pre-date this section shall be deemed permitted principal uses and may be utilized for the placement of antennae subject to the following conditions:

- (a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same type as the existing tower, unless the Town of Newton allows reconstruction as another type of structure.
- (b) An existing tower may be modified or rebuilt to a taller height not to exceed the maximum tower height established by this section.
- (c) The height change referred to above may only occur one time per such additional user of the tower, up to a maximum of three times per tower.
- (d) A tower which is rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 100 feet of its existing location.
- (e) After the tower is rebuilt to accommodate collocation, only one tower may remain on site.
- (f) Antennae may be located inside structures if they are not visible from surrounding parcels, and site plan may be waived in this instance.

320-30.E DESIGN STANDARDS FOR TOWERS AND ANTENNAS

320-30.E(1) The following design standards shall apply and be considered part of the site plan review process and require approval pursuant to NJSA 40:55D-50:

- (a) Aesthetics. At the discretion of the appropriate land use board, towers and antennae shall meet the following requirements:
 - [1] Towers shall either maintain a galvanized steel finish subject to any applicable standards of the FAA or the appropriate land use board, or shall be painted a neutral color so as to reduce visual obtrusiveness.
 - [2] At a lower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings, and shall be located behind existing structures, buildings or

- terrain features which will shield the buildings and related structures from view.
- [3] If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be at a neutral ratio that is identical to or closely comparable with the color of the supporting structure, so as to make the antenna and related equipment as visually unobtrusive as possible.
- (b) Lighting. No lighting shall be permitted except as follows, which shall be subject to review and approval of the appropriate land use board as part of the site plan application process:
- [1] A building enclosing electronic equipment may have one light at the entrance to the building, provided the light is attached to the building, is focused downward, and is switched so that the light is turned on only when workers are at the building.
- [2] No lighting is permitted on any tower except lighting specifically required by the FAA.
- [3] Any such required lighting shall be focused and shielded to the greatest extent possible so as not to project toward adjacent and nearby properties.
- (c) State and Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other State or Federal agency with the authority to regulate such uses. When any such applicable standards and regulations are changed, the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of the tower or antenna at the owner's expense.
- (d) Building codes. To ensure the structural integrity of towers, the owner of a tower shall ensure it is maintained in compliance with standards contained in the applicable State or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 calendar days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 calendar days shall constitute grounds for the immediate removal of the tower or antenna by the owner, lessee or by the Town at the owner's expense.
- (e) Signs. No signs shall be allowed on an antenna or tower, except as may be required by the FAA or the FCC.
- (f) Electronic equipment buildings. Any proposed building related to electronic equipment shall not be more than 15 feet in height nor more than 700 square feet in area, and only one such building shall be permitted on the lot for each provider of communication services located on the site.
- (g) Parking. Minimum off-street parking shall be permitted as needed and approved by the appropriate land use board.
- (h) Security. All towers shall be designed with anti-climbing devices to prevent unauthorized access. Additionally, any tower supporting cellular or other wireless tower antennas and any building enclosing related electronic equipment shall be surrounded by a fence between six and eight feet high,

excluding barbed wire. The fence shall be bordered by a double stepped row of evergreen conifer trees at least eight feet tall at the time of planting and shall be planted ten feet on center.

- (i) Interference with public safety communications. No cellular or other wireless antenna and/or its related electronic equipment shall interfere with any public safety communications.
- (j) Noise. Noise levels at any property line shall not exceed 50 decibels or current noise standards promulgated by the State of New Jersey, whichever is less.
- (k) Generators. Any generator located on the site shall be enclosed within a portion of the electronic equipment building. Any fuel storage shall be in compliance with federal and State regulations, and shall be limited to fuel stored within the primary fuel tank provided by the manufacturer of the generator. No auxiliary or supplementary fuel storage shall be permitted.

320-30.F GENERAL REQUIREMENTS FOR TOWERS AND ANTENNAS

- 320-30.F(1) Principal or accessory use. Antennas and towers shall be considered principal uses. Notwithstanding any other Town Land Use Regulations, an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. If a tower and its appurtenant structures constitute the sole use of the lot, the tower shall be deemed to be the principal use.
- 320-30.F(2) Lot size. For the purpose of determining whether the installation of a tower or antenna complies with the zone district development regulations, including but not limited to set back requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas may be located on leased parcels within such lot.
- 320-30.F(3) Facility abandonment. In the event that any tower is abandoned or is not operated for a period of one year, the same shall be removed within 60 days notice by the Town at the sole expense of the owner. The owner shall provide a performance bond and/or other assurances satisfactory to the Planning Board and the Town that will cause the antennas, the supporting tower, the auxiliary building enclosing related electronic equipment, and all other related improvements to the land to be removed at no cost to the Town.

320-30.G SITE PLAN SUBMISSION AND APPROVAL REQUIREMENTS

- 320-30.G(1) In addition to the applicable documentation and items of information required for major site plans within the Town Land Use Ordinance, the following additional documentation and items of information shall be required as part of any wireless communications facility site plan application for any site in the Town, regardless of whether the proposed site is in an area where such a tower is a permitted use:
 - (a) A scaled site plan clearly indicating the location, type and height of the proposed facility, on-site land uses and zoning, adjacent land uses and zoning (including if the site is adjacent to other municipalities), adjacent roadways, proposed means of access, set back from property lines, elevation drawings of the proposed tower and other structures, topography, woodlands, tree lines, buffers or significant topographic terrain features, parking and other information deemed necessary to assess compliance with this section.
 - (b) The set back between the proposed tower and the nearest residential unit.
 - (c) Documentation by a qualified expert regarding the capacity of the proposed tower for the number of antennas.
 - (d) Documentation by a qualified expert that any proposed tower will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas, and will meet the structural standards developed for antennas by the Electronic Industries Association and/or the

Telecommunication Industry Association. Such documentation shall also indicate that the applicant shall make available any unoccupied space in an existing equipment building or shall permit the collocator to construct its own separate equipment building if existing space is not available.

- (e) A letter of intent by the applicant in a form acceptable to the Town indicating the applicant will share the use of any tower with other approved cellular or other wireless communications services. Additionally, the applicant shall make available to subsequent collocators any space in the applicant's existing equipment building, or if no additional space is available to address the needs of the proposed collocator, the applicant shall make available a portion of the site for construction of an additional equipment building for the use of the proposed collocator.
- (f) A visual sight distance analysis graphically simulating the appearance of any proposed tower and indicating the view from at least five locations around and within one mile of the proposed tower where the tower will be most visible.
- (g) An overall comprehensive plan indicating how the applicant intends to provide full service throughout the Town and, to the greatest extent possible, how its plan to provide full service specifically relates to and is coordinated with the needs of all other providers of cellular or other wireless communications services within the Town. Specifically, the plan shall indicate the following:
 - [1] How the proposed antenna relates to the location of any existing towers within the Town.
 - [2] How the proposed location relates to the anticipated need for additional antennas and supporting towers within and near the Town by the applicant and by other providers of cellular or other wireless communications services within the Town.
 - [3] How the proposed location relates to the objective of allocating the antennas of many different providers of cellular or other wireless communications services on the same tower.
 - [4] How the proposed location relates to the overall objective of providing full cellular or other wireless or other forms of wireless communications services within the Town while, at the same time, limiting the number of towers to the fewest possible.
 - [5] A radio frequency emissions report from a qualified expert detailing latent site emissions.
- (h) Upon completion of the construction of the facility, as-built drawings (plans and profiles) certified by a professional engineer licensed by the State of New Jersey shall be submitted showing all improvements, appurtenances, structures and conditions at the time of preparation.
- (i) No modifications and/or additions to the facilities which are the subject of an approved site plan shall be made without subsequent application to, and review and approval by, the appropriate land use board of an amended site plan showing such modifications or additions.
- (j) The applicant shall protect and preserve by deed restriction which shall be subject to the approval of the land use board attorney, all existing, proposed and/or required buffers, subject to reasonable construction easements to facilitate completion of all proposed improvements.

320-30.H

EXISTING TOWERS

Non-conforming towers or antennas that are damaged or destroyed may not be rebuilt without having to first obtain site plan approval and a conditional use permit, and shall be required to meet the requirements specified above. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility as

approved. Building permits to rebuild the facility shall comply with the then applicable building codes, and shall be obtained within 180 days from the date when the facility was damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Subsection 320-25.7c.

320-30.I

ABANDONMENT AND REMOVAL

Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town of Newton notifying the owner of such abandonment. Towers that are rendered obsolete or outdated by advances in technology shall be removed or modified. Failure to remove an obsolete, outdated or abandoned antenna or tower within 90 days shall be grounds for the Town to require removal of the tower or antenna at the owner's or property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower or same is deemed obsolete or outdated by the Town. The Town may condition the issuance of any permit to construct a tower or antenna on the posting of an appropriate performance bond or other suitable guarantee in a face amount of not less than 120 percent of the cost to remove the tower and restore the property as determined by the Town Engineer for such construction as required under all applicable Town Ordinances.

Section 320-31 Administration and Enforcement

Subsections:

- 320-31.A Administration and Enforcement
- 320-31.B Enforcement by Zoning Officer
- 320-31.C Assistant Zoning Officer
- 320-31.D Zoning Permits
- 320-31.E Certificate of Occupancy
- 320-31.F Temporary Use Permits
- 320-31.G Temporary Certificate of Occupancy and Zoning Permits
- 320-31.H Sign Permits
- 320-31.I Records and Reports
- 320-31.J Violations and Penalties
- 320-31.K Interpretation
- 320-31.L Pending Applications

320-31.A ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Zoning Officer to enforce the provisions of this Chapter. The Zoning Officer shall investigate any violation or alleged violation of this Chapter coming to their attention and shall have, to the extent applicable, all of the powers to exercise all of the functions and duties with respect to this Chapter as set forth below.

320-31.B ENFORCEMENT BY ZONING OFFICER

The office of Zoning Officer is hereby created. It shall be the duty of the Zoning Officer to enforce this Chapter, the provisions of Chapter 240 (Site Plan and Subdivision Review), and also the provisions of the Land Use Procedures (Chapter 166 of this revision). Pursuant to that duty, the Zoning Officer shall investigate any violation or alleged violation of this Chapter coming to his attention. All applications to the Construction Official for building permits shall be examined by the Zoning Officer for compliance with this Chapter and all such permits shall be signed by the Zoning Officer, as well as the Construction Official. The Zoning Officer shall require two sealed plot plans with an embossed seal, prepared by a New Jersey licensed professional engineer, land surveyor, architect or planner to the extent that said professionals are permitted to prepare such plans by virtue of the provisions of NJAC 13:40-7.3. Such plans shall be drawn to scale and show the size and other facilities sufficient to enable him to determine whether all zoning requirements are met. The requirement for sealed plot plans may be waived for additions, alterations or accessory structures to existing single family dwellings, and a sketch prepared by the owner or applicant accepted in lieu thereof. Where there is a question as to the size, location or other zoning requirements, the Zoning Officer may require a sealed location survey. In the event of any material deviation from the approved application, plot plan, or building plans, the Zoning Officer may stop construction by posting a stop work notice at the building site. The Zoning Officer and the Construction Official, or either of them, shall have the right to enter any building or premises during the day time in the course of duty, after proper notification to the property owner or occupant of the property.

320-31.C ASSISTANT ZONING OFFICER

320-31.C(1) Office created. The office of Assistant Zoning Officer is hereby created. There may be at the discretion of the Town Manager, up to two Assistant Zoning Officers who are appointed by the Town Manager and are current employees of the Town of Newton.

- 320-31.C(2) Compensation. The Assistant Zoning Officer shall not receive any additional compensation other than the compensation fixed for their employed position.
- 320-31.C(3) Duties. It shall be the duty of the Assistant Zoning Officer, under the supervision and control of the Zoning Officer and to the extent not prohibited by law, to perform all the duties of the Zoning Officer in the absence of the Zoning Officer or at such other times as may be permitted by law or as directed by the Town Manager.

320-31.D ZONING PERMITS

- 320-31.D(1) Required. A zoning permit shall be required in the following instances:
- (a) Before using or allowing the use of any structure, building, or land or part thereof, hereinafter created, erected, changed, converted or enlarged, wholly or partly.
 - (b) Before changing the use of any building property or part thereof, or allowing a change of use of any building or property, or part thereof.
- 320-31.D(2) Details. A zoning permit shall show that every building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this Chapter, or in conformity with the provisions of a variance granted according to law.
- 320-31.D(3) Issuance; required prior to work. All zoning permits shall be issued in triplicate. One copy shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, work- man or other persons shall perform any building operations of any kind unless the zoning permit covering such operation has been previously issued. Furthermore, no building operations of any kind shall be performed after notification of the revocation of the zoning permit. Every zoning permit for a residence or residential dwelling unit shall set forth the maximum occupancy of such residence or dwelling unit, as determined by the Town of Newton housing code.
- 320-31.D(4) Records. A record shall be kept of all zoning permits issued. The original application, therefore, shall be kept on file in the same manner as applications for building permits.
- 320-31.D(5) Duration. A zoning permit, unless revoked, shall continue in effect so long as there is no change of use of the premises.
- 320-31.D(6) Time for action on application.
- (a) The Zoning Officer shall act upon all such applications within 15 days after receipt of a fully filed application, or shall notify the applicant in writing of the refusal to issue such permit and the reasons therefore.
 - (b) Failure to notify the applicant in case of refusal to issue a permit within 15 days shall entitle the applicant for a zoning permit to file an appeal to the Planning Board, as in the case of denial.
- 320-31.D(7) Waiver of plans. The Zoning Officer may waive plans on minor alterations not affecting structural change.
- 320-31.D(8) Fees. The Zoning Officer shall collect a fee for each zoning permit issued as set forth in the Town's Fee Ordinance, except that if a Certificate of Occupancy is required, no additional charge shall be made for issuance of a zoning permit.
- 320-31.D(9) Misleading application; violation of permit. If it shall appear at any time to the Zoning Officer that the application or accompanying plans is in any material respect false or misleading, or that the work being done upon the premises is materially different from that called for in the application previously filed with him, or may be in violation of any provision of this Chapter, or that the conditions imposed by the Planning Board are not being met within the time or in the manner required by the approving authority, he may forthwith revoke the zoning permit.
- 320-31.D(10) Permit required prior to use. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after passage of this Chapter, without first obtaining a zoning permit.

320-31.D(11) Permit for non-conforming use created by change in ordinance. Within one year from the effective date of any subsequent amendment to the Zoning Ordinance of the Town of Newton, the effect of which is to make certain uses non-conforming, the owner of the property upon which any such non-conforming use exists may apply for and obtain at no charge a zoning permit certifying the extent of the non-conforming use and specifying the non-conformity in detail. After the expiration of any such one year period, a zoning permit may be issued for a non-conforming use only by the Planning Board, after a hearing held on notice to all persons entitled thereto.

320-31.E CERTIFICATE OF OCCUPANCY

It shall be unlawful for an owner to use or permit the use of any building or part thereof, hereafter erected, altered, converted or enlarged, wholly or in part, until a Certificate of Occupancy shall have been issued by the Construction Official. A fee as set forth in the Town's Fee Ordinance shall be charged for each Certificate of Occupancy or duplicate certificate, except as otherwise herein provided.

320-31.F TEMPORARY USE PERMITS

The Zoning Officer may issue a temporary use permit for temporary uses of a property as defined by this Ordinance. Such application for a temporary use must be for a permitted use in the zone in which the property is located and the applicant must have the written permission of the property owner to locate the temporary use on the property. If a temporary use is proposed to be conducted on public property, the Town of Newton or associated governmental entity must approve the use in writing. Temporary uses proposed on sidewalks or in parking lots must meet all applicable fire, safety and ADA standards, rules and regulations.

320-31.F(1) Duration. Such permits may be issued for a period not to exceed six months and on further application to the Zoning Officer, may be extended for good cause shown for an additional period not to exceed one year. Thereafter, such temporary use permit shall expire and the use so permitted shall be abated. Any temporary structures erected in connection therewith shall be removed.

320-31.F(2) Temporary Certificate of Occupancy for sales office. Where a building permit has been issued, a temporary Certificate of Occupancy for a dwelling house may be granted to a developer to permit such dwelling house to be used temporarily as a sales and management office for the sale of those homes within a subdivision, provided all of the following requirements are met:

- (a) The house to be used as such office is built upon a lot which is on part of a subdivision that has been approved by the Planning Board.
- (b) The house is of substantially the same quality of construction as those homes to be sold within the subdivision.
- (c) No other business than that which is accessory to the management and the sale of lands owned by the developer shall be permitted.
- (d) The dwelling house shall meet all other requirements of the zone district in which it is located.

320-31.F(3) For temporary non-conforming use incidental to construction. Where a building permit has been issued, the Planning Board may grant a temporary use permit for a non-conforming use incidental to construction projects on the same premises, such as the storage of building supplies and machinery and/or the assembly of building materials. For example, but not by way of limitation, such temporary use permit may be issued to permit the parking of a "construction trailer" on such a site.

320-31.F(4) For uses interrupted by casualty. The Planning Board may grant a temporary use permit for the erection and maintenance of temporary structures or buildings for the conduct of permitted uses where such permitted uses have been interrupted by reason of fire or other casualty. Such temporary use permit shall expire at the time the

necessary repair or reconstruction of the permanent structures or buildings has been accomplished or within one year, whichever occurs first.

320-31.F(5) Pending construction of permanent facilities. The Planning Board may grant temporary use permits for the location of temporary structures in connection with permitted uses on the site of such permitted use; which use is either existing or about to be established, upon the construction of a permanent structure. Such temporary structure shall provide facilities during construction of permanent facilities which are an addition to the permitted use or which will result in permanent facilities to house the permitted use. For example, but not by way of limitation, such temporary use permits may be issued to permit the parking of a trailer housing banking facilities, temporary office space, temporary classroom space and/or temporary warehouse space on such a site.

320-31.G TEMPORARY CERTIFICATE OF OCCUPANCY AND ZONING PERMITS

The Zoning Officer may issue a temporary zoning permit, and the Construction Official may issue a temporary Certificate of Occupancy, for a use of land or a building which is related to the development of a permitted use of the property. In evaluating any application for such temporary permits, the building or structure in question must meet the minimum requirements as set forth in the New Jersey uniform construction code act for the issuance of temporary certificates of occupancy, and a bond shall be posted which is sufficient in the judgment of the Zoning Officer or Construction Official as appropriate, which will guarantee the completion of the project. Such temporary permits shall be issued for a period not to exceed six months and may be extended for an additional period not to exceed six months.

320-31.H SIGN PERMIT

A sign permit shall be required prior to the erection or alteration of any sign.

320-31.I RECORDS AND REPORTS

320-30.I(1) Records. It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits and of all permits issued, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans submitted which shall form a part of the record of his office, which shall be available for the use of the Town Council and other officials of the Town.

320-31.I(2) Reports. The Zoning Officer shall prepare a monthly report for the Town Council summarizing for the period since his last report all zoning permits issued, complaints of violations received, and action taken by him with respect thereto. Such report shall be in a form and shall contain such information as the Town Council may direct. Copies of such reports shall be made available to the Construction Official and the tax assessor.

320-31.J VIOLATIONS AND PENALTIES

For each and every violation of the provisions of this Chapter, the owner, contractor or other person interested as general agent, architect, building contractor, tenant or any other person who commits, takes part in, or assists in any violation of this Chapter, or who maintains any building or premises in which any violation of this Chapter shall exist, and who shall have refused to abate such violation within five days after written notice shall have been served upon him, either by certified mail or personal service, shall be subject to a fine of not more than \$1,250.00 or imprisonment in the County Jail for a period not exceeding 90 days, or both, at the discretion of the County or judicial officer before whom a conviction may be had. Each and every day that such violation continues after such notices shall be considered a separate and specific violation of this Chapter.

320-31.K**INTERPRETATION**

In the interpretation and application of the provisions of this Chapter, such provisions shall be held to be minimum requirements, adopted for promoting health, safety, and general welfare of the Town of Newton. This Chapter shall be read in para materia with the land use procedures Chapter and, where appropriate, with the land subdivision and site plan Chapters.

320-31.L**PENDING APPLICATIONS**

All applications for development accepted as properly filed prior to the effective date of this Chapter may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of the land use procedures ordinance of the Town of Newton.

Section 320-32 WIND AND SOLAR ENERGY SYSTEMS

Subsections:

- 320-32.A Title
- 320-32.B Purpose
- 320-32.C Definitions
- 320-32.D Temporary Uses
- 320-32.E Permitted Uses; Exemptions
- 320-32.F Conditional Uses
- 320-32.G Site Design Requirements

320-32.A TITLE

This article shall be referred to as the "Wind and Solar Energy Systems Ordinance."

320-32.B PURPOSE

The purpose of this article is to establish guidelines for siting small and medium wind energy systems and solar energy systems. The goals are as follows:

- (1) To promote the safe, effective, and efficient use of wind energy systems and solar energy systems in order to reduce the consumption of fossil fuels in producing electricity.
- (2) To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of wind energy systems and solar energy systems.
- (3) To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of wind energy systems and solar energy systems shall be governed.

320-32.C DEFINITIONS

As used in this Chapter, the following terms shall have the meanings indicated:

AMBIENT SOUND LEVEL. The amount of background noise at a given location prior to the installation of a wind energy system or solar energy system, which may include, but not be limited to, traffic, machinery, lawn mowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale, as defined by the American National Standards Institute.

ANEMOMETER. A temporary wind-speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind-direction vanes, booms to hold equipment, data logger, 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.

DECIBEL. Defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale, as defined by the American National Standards Institute.

DECOMMISSIONING. The process of terminating operation and completely removing WET(s) and all related buildings, structures, foundations, access roads, and equipment.

MEDIUM WIND ENERGY TURBINE (MWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a nameplate capacity that does not exceed 250 kilowatts. The total height does not exceed 150 feet.

NACELLE. Refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

NET-METERING. A special metering and billing agreement between utility companies and their customers which facilitates the connection of renewable energy-generating systems to the power grid.

OCCUPIED BUILDING. A residence, school, hospital, church, public library, business, or any other building used for public gatherings.

OPERATOR. The entity responsible for the day-to-day operation and maintenance of a wind energy system or solar energy system.

OWNER. The individual or entity, including their respective successors and assigns that have equity interest or own the wind energy system or solar energy system in accordance with this article.

PREVAILING WIND. A wind which predominantly blows from one direction.

ROTOR DIAMETER. The cross-sectional dimension of the circle swept by the rotating blades of a WET.

SHADOW FLICKER. The moving shadow, created by the sun shining through the rotating blades of a wind energy turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

SMALL STRUCTURE-MOUNTED WIND ENERGY TURBINE (SSMWET). Converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The SSMWET has a nameplate capacity that does not exceed 10 kilowatts. The total height does not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.

SMALL TOWER-MOUNTED WIND ENERGY TURBINE (STMWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWET has a nameplate capacity that does not exceed 30 kilowatts. The total height does not exceed 120 feet.

SOLAR ENERGY SYSTEM. An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy through the use of a solar panel or solar panel array and associated equipment.

SOLAR PANEL. A photovoltaic panel, or hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR PANEL ARRAY. A collection of multiple solar panels mounted or arranged together, providing energy to the same primary user, as part of a solar energy system.

STRUCTURE. Any building or other structure, such as a municipal water tower that is a minimum of 12 feet high at its highest point of roof and is secured to frost-footing or a concrete slab.

TOTAL HEIGHT. The vertical distance measured from the ground level at the base of the tower or the ground-mounted solar panel array to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy turbine (WET) or the uppermost extent of any individual solar panel.

TOWER. A freestanding monopole that supports a wind energy turbine (WET).

UPWIND TURBINE. A wind energy turbine (WET) positioned in a manner so that the prevailing wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.

WIND ENERGY TURBINE/WIND ENERGY SYSTEM (WET). Any structure-mounted, small or medium wind-energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

320-32.D TEMPORARY USES

The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable wind energy system regulations:

- (1) Anemometers.
 - (a) The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, State, and Federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 - (b) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and

decommissioning that correspond to the size of the wind energy turbine that is proposed to be constructed on the site.

- (c) An anemometer shall be permitted for no more than 13 months.

320-33.E PERMITTED USES; EXEMPTIONS

- 320-33.E(1) A small tower-mounted wind energy turbine (STMWET) over 40 feet in height shall be considered a permitted use in all zoning districts on lots of one acre and greater in size, subject to site plan approval by the Planning Board. STMWET shall not be erected, constructed, installed, or modified as provided in this article unless all required local, State and Federal approvals and permits have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.
- 320-33.E(2) Small structure-mounted wind energy turbines (SSMWET) and STMWETs up to 40 feet in height shall be a permitted use in all zoning districts, provided the required setbacks can be met. STMWETs up to 40 feet in height must also obtain site plan approval from the Planning Board. SSMWETs shall not be erected, constructed, installed, or modified as provided in this article unless a building permit has been obtained from the Town of Newton and all required State and Federal approvals and permits have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.
- 320-33.E(3) Solar energy systems. Solar panels shall be permitted as a rooftop installation in any zoning district, provided that they meet the site design standards set forth below and a building permit is obtained from the Town of Newton. Ground arrays shall be permitted on lots of one acre or greater in any zoning district, subject to site plan approval by the Planning Board. A solar energy system shall not be erected unless all local, State and Federal permits and approvals have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.
- 320-33.E(4) Exemptions. Solar energy systems under 20 square feet in size shall be exempt from the requirements of this article.

320-33.F CONDITIONAL USES

A medium wind energy turbine (MWET) shall be a conditional use in all nonresidential districts, subject to the following conditions:

- (1) Minimum lot size: five acres.
- (2) Maximum height: 150 feet.
- (3) Quantity: No more than one MWET shall be installed for every 2.5 acres of land included in the parcel.
- (4) Setback and separation.
 - (a) Occupied building setback. The setback from all occupied buildings on the applicant's parcel shall be a minimum of 20 feet, measured from the base of the tower.
 - (b) Property line setbacks. With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the internal property line setbacks shall be equal to the total height of the MWET as measured from the base of the tower.

This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.

- (c) Public road setbacks. Each MWET shall be set back from the nearest public road a distance equal to the total height of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.
- (5) Tower separation. MWET/tower separation shall be based on industry standards and manufacturer recommendation.
- (6) Each MWET, including accessory buildings and other related structures, shall be mounted on a tubular tower of a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET
- (7) Shadow flicker. The MWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with a direct line of sight to the MWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.

320-33.G SITE DESIGN REQUIREMENTS

- (1) All wind energy systems are subject to the following minimum standards:
 - (a) Small structure-mounted wind energy turbines (SSMWET) shall meet the following specific standards:
 - [1] Minimum setbacks. The setback of the SSMWET shall be a minimum of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet. The setback shall be measured from the furthest outward extension of all moving parts.
 - [2] Height. The height of a SSMWET shall not exceed 15 feet, as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.
 - [3] Location. The SSMWET shall not be affixed to the wall on the side of a structure facing a road. The SSMWET shall not be affixed to temporary structures or structures without permanent foundations.
 - [4] Quantity. Not more than one SSMWET shall be installed on any one structure on a particular property.
 - [5] Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET, and they must be affixed to separate permanent structures.

- (b) Small tower-mounted wind energy turbines (STMWET) shall meet the following specific standards:
 - [1] Minimum lot size: one acre.
 - [2] Minimum setbacks for STMWET. For lots between one acre and three acres, wind turbines shall be set back from all property lines a distance equal to 100% of the height of the structure, including the blades. For lots larger than three acres, wind turbines shall be set back from all property lines a distance equal to 100% (remove 200% to be consistent) of the height of the structure, including the blades. No portion of the wind generator shall extend beyond any overhead utility lines, unless written permission is granted by the utility that owns and/or controls the lines.
 - [3] Height. The total height of a STMWET shall not exceed 120 feet.
 - [4] Location. The STMWET shall only be located in a rear yard of a property that has an occupied building.
 - [5] Occupied building setback. The setback from all occupied buildings on the applicant's parcel shall be a minimum of 20 feet, measured from the base of the tower.
 - [6] Other setbacks. The setback shall be equal to the total height of the STMWET, as measured from the base of the tower, from the property line, public right-of-way, public easement, or overhead public utility lines. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the wind turbine.
 - [7] Quantity. No more than one STMWET shall be installed on any parcel of property.
- (c) Upwind turbines shall be required.
- (d) Wind turbines shall not be permitted in any front yard.
- (e) Visual appearance.
 - [1] A wind energy system, including accessory buildings and related structures, shall be a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the wind energy system.
 - [2] A wind energy system shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or as otherwise necessary for the reasonable safety and security thereof.
 - [3] Wind energy systems shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
 - [4] All ground equipment shall be screened from view to the maximum extent practical with landscaping and/or decorative fencing.
- (f) Ground clearance. The lowest extension of any blade or other exposed moving component of a wind energy system shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the tower for a SSMWET and STMWET, 50 feet for a MWET) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the wind energy system.

- (g) Noise. Noise emanating from the operation of a wind energy system shall not exceed, at any time, the lowest ambient sound level that is present up to 5 dB(A) between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a wind energy system shall not exceed, at any time, the lowest ambient noise level, plus 5 dB(A), that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a nonresidential or nonagricultural use parcel.
 - (h) Vibration. Vibrations shall not be produced which are humanly perceptible beyond the property on which a wind energy system is located.
 - (i) Guy wires. Guy wires shall not be permitted as part of a wind energy system over 35 feet in height.
 - (j) Electrical system. All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement. The electrical system shall meet National Electric Code standards.
- (2) Solar panels installed as a rooftop installation shall meet the following standards: The solar panels shall not exceed a height of eight inches from the rooftop. In no event shall the placement of the solar panels result in a total height, including building and panels, greater than what is permitted in the zoning district in which they are located for the principal building.
 - (3) Solar panels shall be permitted as ground arrays in accordance with the following:
 - (a) All ground arrays shall be set back a distance of 20 feet from all property lines in a residential zoning district or in conformance with the bulk standards for accessory structures in commercial districts as provided in this Chapter.
 - (b) Ground arrays shall not be permitted in a front yard.
 - (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
 - (d) Ground arrays shall not exceed a height of 15 feet.
 - (e) Ground arrays shall be screened from view with landscaping buffers and/or decorative fencing.
 - (4) Permit application requirements:
 - (a) Name of property owner(s), address, and parcel number.
 - (b) A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the solar or wind energy system, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, roads and contours.
 - (c) The proposed type and height of the solar energy system, SSMWET or STMWET to be constructed, including the manufacturer and model, product specifications, including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter (if applicable), and a description of ancillary facilities.
 - (d) Documented compliance with the noise requirements set forth in this article.

- (e) Documented compliance with applicable local, State and National regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 - (f) Proof of applicant's liability insurance.
 - (g) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator, and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
 - (h) Other relevant information as may be reasonably requested.
 - (i) Signature of the applicant.
 - (j) In addition to the permit application requirements previously listed, a SSMWET application shall also include the total proposed number of SSMWETs.
 - (k) In addition to the permit application requirements previously listed, a STMWET and MWET application shall also include a description of the methods that will be used to perform maintenance on the STMWET/MWET and the procedures for lowering or removing the STMWET/MWET in order to conduct maintenance.
- (5) Site plan requirements.
- (a) Site plan drawing. All applications for a ground array solar energy system, SMWET or MWET conditional use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:
 - [1] Existing property features, to include the following: property lines, physical dimensions of the property, land use, zoning district, contours, setback lines, rights-of-way, public and utility easements, public roads, access roads (including width), sidewalks, nonmotorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties, as well as the location and use of all structures and utilities within 300 feet of the property.
 - [2] Location and height of all proposed solar panels, SWETs or MWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical substations, and other aboveground structures and utilities associated with the proposed energy system.
 - [3] Additional details and information as required by the special use requirements of this Chapter or as requested by the Planning Board.
 - (b) Site plan documentation. The following documentation shall be included with the site plan:
 - [1] The contact information for the owner(s) and operator(s) of the energy system, as well as contact information for all property owners on which the energy system is located.
 - [2] A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed energy system. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
 - [3] Identification and location of the properties on which the proposed energy system will be located.

- [4] The proposed number, representative types and height of each solar array, SWET or MWET to be constructed, including their manufacturer and model, product specifications, including maximum noise output (measured in decibels), total rated capacity, rotor diameter (if applicable), and a description of ancillary facilities.
 - [5] Documents shall be submitted by the developer/manufacturer confirming specifications for SMWET or MWET tower separation.
 - [6] Documented compliance with the noise and shadow flicker requirements set forth in this article.
 - [7] Engineering data concerning construction of the solar panels, SWET or MWET, and its base or foundation, which may include, but not be limited to, soil boring data.
 - [8] A New Jersey licensed professional engineer shall certify that the solar panels, SWET or MWET meets or exceeds the manufacturer's construction and installation standards.
 - [9] Anticipated construction schedule.
 - [10] A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the solar panels, SWET or MWET to conduct maintenance, if applicable.
 - [11] Documented compliance with applicable local, State and National regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, and communications regulations. The SWET or MWET shall comply with Federal Aviation Administration (FAA) requirements.
 - [12] Proof of applicant's liability insurance.
 - [13] Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator, and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
 - [14] Other relevant information as may be requested by the Planning Board to ensure compliance with the requirements of this article.
 - [15] Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the conditional use permit.
 - [16] A written description of the anticipated life of each solar panel, SWET or MWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the energy system becomes inoperative or nonfunctional.
 - [17] The applicant shall submit a decommissioning plan that will be carried out at the end of the solar panel's, SWET's or MWET's useful life and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.
 - [18] The Town of Newton reserves the right to review all maintenance plans and bonds under this article to ensure that all conditions of the permit are being followed.
 - [19] Signature of the applicant.
- (6) Safety requirements.

- (a) If the solar energy system or wind energy system is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting Federal, State, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
 - (b) The wind energy system shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades and other wind energy components, unless the manufacturer certifies that a braking system is not necessary.
 - (c) A clearly visible warning sign regarding voltage shall be placed at the base of the wind turbine or solar panel ground array.
 - (d) The structural integrity of the wind energy system shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," and/or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.
 - (e) MWETs shall also meet the following additional safety requirements:
 - [1] Security measures need to be in place to prevent unauthorized trespass and access. Each MWET shall not be climbable up to 15 feet above ground surfaces. All access doors to MWETs and electrical equipment shall be locked and/or fenced, as appropriate, to prevent entry by nonauthorized person(s).
 - [2] All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.
 - [3] Each MWET shall have one sign, not to exceed two square feet in area, posted at the base of the tower and on the security fence, if applicable. The sign shall contain at least the following:
 - [a] Warning of high voltage.
 - [b] Manufacturer's and owner's/operator's name.
 - [c] Emergency contact numbers (list more than one number).
 - [d] The structural integrity of the MWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.
- (7) Signal interference.
- (a) The wind energy system shall not interfere with communications systems, such as, but not limited to, radio, telephone, television, satellite, or emergency communications systems.
- (8) Decommissioning.
- (a) The solar energy system or wind energy system owner(s) or operator(s) shall complete decommissioning within 12 months after the end of the useful life of the system. Upon request of the owner(s) or assigns of the solar energy system or wind energy system, and for a good cause, the Town of Newton Planning Board may grant a reasonable extension of time. The solar energy system or wind energy system will presume to be at the end of its useful life if no electricity is generated for a continuous

- period of 12 months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).
- (b) If the solar energy system or wind energy system owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Town of Newton Council may designate a contractor to complete decommissioning, with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the solar energy system or wind energy system is not owned by the property owner(s), a bond must be provided to the Town of Newton for the cost of decommissioning each solar energy system or wind energy system.
- (c) In addition to the decommissioning requirements listed previously, the STMWET shall also be subject to the following:
- [1] Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.
 - [2] The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas shall not be restored.
- (d) In addition to the decommissioning requirements listed previously, the MWET shall also be subject to the following:
- [1] Decommissioning shall include the removal of each MWET, buildings, electrical components, and roads to a depth of 60 inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds.
 - [2] All access roads to the MWET shall be removed, cleared, and graded by the MWET owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road. The Town will not be assumed to take ownership of any access road unless through official action of the Town Council.
 - [3] The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the MWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas not be restored.
 - [4] If the MWET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Town may designate a contractor to complete decommissioning, with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the MWET is not owned by the property owner(s), a bond must be provided to the Town for the cost of decommissioning each MWET.
- (9) Public inquiries and complaints.

- (a) Should an aggrieved property owner allege that a solar energy system or wind energy system is not in compliance with the requirements of this article, the procedure shall be as follows:
 - [1] Noise complaints.
 - [a] Notify the Town's Zoning Officer in writing regarding concerns about noise level.
 - [b] If the complaint is deemed sufficient by the Town's Zoning Officer to warrant an investigation, the Town's Zoning Officer will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise-level test conducted by a certified acoustic technician to determine compliance with the requirements of this article.
 - [c] If the test indicates that the noise level is within this article's noise requirements, the Town will use the deposit to pay for the test.
 - [d] If the solar energy system or wind energy system owner(s) is in violation of this article's noise requirements, the owner(s) shall reimburse the Town for the cost of the noise-level test and take immediate action to bring the solar energy system or wind energy system into compliance, which may include ceasing operation of the system until article violations are corrected. The Town will refund the deposit to the aggrieved property owner.
 - [2] Shadow flicker complaints for MWETs.
 - [a] Notify the Town Zoning Officer in writing regarding concerns about the amount of shadow flicker.
 - [b] If the complaint is deemed sufficient by the Town Zoning Officer to warrant an investigation, the Town Zoning Officer will request the owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance with the requirements of this article.
 - [c] If the MWET owner(s) is in violation of this article's shadow flicker requirements, the owner(s) shall take immediate action to bring the MWET into compliance, which may include ceasing operation of the WET until the article violations are corrected.
- (10) Certification and compliance.
- (a) The Town must be notified of a change in ownership of a MWET or a change in ownership of the property on which the MWET is located.
 - (b) The Town reserves the right to inspect any MWET in order to ensure compliance with this article. Any cost associated with the inspections shall be paid by the owner/operator of the wind energy system.
 - (c) Proof of compliance with the noise standards is required within 90 days of the date the MWET becomes operational. Sound shall be measured by a third-party, qualified professional.

Section 320-33 Prohibited Uses

Subsections:

320-33.A Prohibited Uses

320-33.A PROHIBITED USES

The following land uses are prohibited in all districts of the Newton Form-Based Code Area, as well as any uses determined by the Board to be of similar nature to the prohibited uses listed below:

- (1) Tattoo parlors
- (2) Sexually oriented businesses
- (3) Pawn shops and check cashing businesses
- (4) Drug paraphernalia shops or head shops
- (5) Drug rehabilitation clinics or substance abuse treatment facilities
- (6) Boardinghouses
- (7) Rooming houses
- (8) Junkyards
- (9) Self-storage facilities
- (10) Outdoor furnaces and accessory structures containing outdoor furnaces

ORDINANCE 2012-12

SCHEDULE C

CHAPTER 139, HISTORIC PRESERVATION

Chapter 139

HISTORIC PRESERVATION

139-1	Short Title.
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139-1 Short Title. This Chapter shall be known and may be referred to by the short title of the Historic Preservation Ordinance of the Town of Newton.

139-2 Establishment of a System of Historic Preservation Regulations.

A. There is hereby created in and for the Town of Newton a Commission to be known as the Historic Preservation Advisory Commission, referred to in this Ordinance as “the Commission”.

B. In adopting this Ordinance, it is the intention of the Town Council to create an agency which will work with and advise the Planning Board on the effect of development applications on designated historic landmarks or improvements within the historic district. In addition, the Commission shall review all development activities involving the exterior of a historic landmark or an improvement within the historic district.

C. This Chapter does not require or prohibit any particular architectural style; rather, its purpose is to preserve the past by making the past compatible with and relevant to the present. To that end, new construction upon or near a landmark should not necessarily duplicate the exact style of the landmark; it must be compatible with and not detract from the landmark.

D. The boundaries of the old Newton core historic district including those landmarks located therein are hereby established as an overlay zoning district to the Town of Newton zoning map. Other historic districts or landmarks may be established from time to time according to the criteria enacted by this Ordinance.

139-3 Intended Purposes. These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetuation of especially noteworthy examples or elements of the Town's environment in order:

A. To safeguard the heritage of Newton by preserving resources within the Town which reflect elements of its cultural, social, economic and architectural history.

B. To encourage the continued use of historic landmarks and to facilitate their appropriate reuse based on the current socio-economic conditions.

C. To maintain and develop an appropriate and harmonious setting for the historic and architecturally significant

buildings, structures, site objects, or district within the Town of Newton.

D. To stabilize and improve property values within the district .

E. To promote appreciation of historic landmarks for education, pleasure and the welfare of the local population.

F. To encourage beautification and private reinvestment.

G. To manage change by encouraging any alteration or new construction within the district to be in keeping with the historic nature of the structure.

H. To discourage the unnecessary demolition of historic resources, which remain viable structures contributing value to the district.

I. To recognize the importance of individual historic landmarks located outside of a district by urging property owners and tenants to maintain their properties .

J. To encourage the proper maintenance and preservation of historic settings and landscapes.

K. To encourage appropriate alterations of historic landmarks.

L. To enhance the visual and aesthetic character, diversity, continuity and interest in the Town.

M. To promote the conservation of historic sites within the district.

139-4 Definitions. As used in this Chapter, the following terms shall have the meanings indicated.

Addition - The construction of a new improvement as part of an existing structure when such new improvement changes the exterior architectural appearance of any landmark.

Administrative Officer - The person designated by the Town Council to handle the administration of historic project review applications, as well as the coordination of building permit applications, as referenced in this Chapter.

Affecting a Landmark or Historic District - Any development activity which alters the exterior architectural appearance of a historic landmark or any improvement within the historic district.

Alteration - Any physical changes to the exterior of a building in the historic district that do not physically expand property; but which are permanent, not just decorative.

Approved Alternate Materials - A list of materials approved for use in the historic district to repair or replace existing materials within the district. The list can be found at the end of this Chapter as Appendix A and may be revised from time to time to incorporate newly available materials on the market. Materials are intended to be similar to existing materials such that appearance is similar yet cost savings can be achieved as well as improved energy efficiency.

Building - A structure created to shelter human activity.

Demolition - A partial or total razing or destruction of any building or of any improvement within the historic district .

Disrepair - The condition of being in need of repairs; a structure or building in disrepair.

Historic District

A. A geographically definable area, urban or rural, small or large, possessing a significant concentration, linkage or continuity of sites, buildings, structures and/or objects which viewed collectively:

- (1) Represent a significant period(s) in the development of the Town, or
- (2) Have a distinctive character resulting from their architectural style, or
- (3) Because of their distinctive character, can readily be viewed as an area or neighborhood district from surrounding portions of the Town.

B. Resources within the historic district shall be classified as key, contributing, or non- contributing, which are defined as:

- (1) **Key** - Any buildings, structures, sites or objects which, due to their significance, would individually qualify for landmark status.
- (2) **Contributing** - Any buildings, structures, sites or objects which are integral components of the historic district, either because they date from a time period for which the district is significant, or because they represent an architectural type, period, or method for which the district is significant.
- (3) **Non-contributing** - Any buildings, structures, sites or objects which are not integral components of the historic district because they neither date from a time period for which the district is significant, nor represent an architectural type, period, or method for which the district is significant.

Historic Landmark(s) - Any buildings, structures, sites, objects or districts which possess integrity of location, design, setting, materials, workmanship, and association and which have been determined pursuant to the terms of this Ordinance to be:

- A. Of particular historic significance to the Town of Newton at the time it was built by reflecting or exemplifying the broad cultural, political, economic or social history of the Nation, State or community, or
- B. Associated with the historic personages important in National, State or local history, or
- C. The site of a historic event which had a significant effect on the development of the Nation, State or community, or
- D. An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering, or
- E. Representative of the work or works of a locally, regionally or nationally important builder, designer, artist or architect.

Historic Preservation Advisory Commission - The body which, for the purposes of this Chapter, acts as the Historic Preservation Commission as cited in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

Improvement - Any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than 120 continuous days.

Object - A thing of functional, aesthetic, cultural, historic, or scientific value that may be by nature or design, movable yet related to a specific setting or environment.

Ordinary Maintenance - Repairing any deterioration, wear or damage to a structure or any part thereof, in order to return to a similar state as nearly as practicable to its condition prior to the occurrence of such deterioration, wear or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs using the same or similar approved materials having the same appearance. (See Appendix A).

Overlay Zone District - A zoning district made up of underlying zone districts or parts of zone districts as shown on the Town zoning map. An overlay zone district controls certain standards with the exception of bulk and use requirements which are controlled by the underlying zone district(s).

Removal - To partially or completely cause a structure or a portion of a structure to change to another location,

position, station or residence.

Repair - Any work done on any improvement which:

- A. Is not an addition to the improvement; and
- B. Does not change the exterior architectural appearance of any improvement.

Replacement - Repairs affecting the exterior architectural appearance of a structure.

Site - The place where a significant event or pattern of events occurred. It may be the location of pre-historic or historic occupations or activities that may be marked by physical remains, or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may also be the location of a ruined building, structure, or object if the location itself possesses historic, cultural, or archeological significance.

Structure - Any man made work arranged in a definite pattern of organization.

Underlying Zone District - A zoning district which forms a constituent part of an overlay zone district. Underlying zone districts control bulk and use requirements.

139-5 Application of Provisions. This Chapter shall apply to all landmarks in a district and to any other historic resources which are designated in accordance with the procedures outlined in section 139-9.

139-6 Permitted Uses. All uses permitted for a historic landmark or for structures within the historic district shall be those designated by the Zoning Ordinance.

139-7 Area and Height Regulations. The maximum building height, minimum lot size, maximum coverage, etc. shall be as provided in the Zoning Chapter for the respective zones, except that the Planning Board may grant variances and waivers from such regulations where necessary.

139-8 Historic Preservation Advisory Commission.

A. The Historic Preservation Advisory Commission shall consist of five members and two alternates who shall serve without compensation, except that the Commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of official business, including attendance at annual training sessions and/or programs that relate to historic preservation within the guidelines of the budget established by the Town Council for the Commission.

B. The Commission positions shall be filled by people who are interested in and qualified to contribute to the preservation of historic buildings, structures, sites, objects, and districts. The Commission shall represent the following categories:

Class A – A person who is knowledgeable in building design and construction or in architectural history and who may reside outside the Municipality; however preference should be given to residents of the Town.

Class B – A person who is knowledgeable or has a demonstrated interest in local history and who may reside outside the Municipality; however preference should be given to residents of the Town.

Class C – Persons who are residents of the Town and who hold no other municipal office, position or employment except for membership on the Planning Board.

The Commission shall include five regular members and a maximum of two alternates, who shall be designated Alternate No. 1 and Alternate No. 2. There shall be at least one member appointed to the Commission from each Class A and B. Alternate members shall only be Class C members.

C. Commission members shall be appointed by the Mayor and shall serve for four year terms, except that of the first members appointed one member shall serve for one year, two members shall serve for two years, and two other

members shall serve for three years. The alternate members shall serve for two year terms. All members may, at the expiration of their terms, be eligible for appointment to four year terms, except for alternate members who are eligible for two year terms. If a Commission member is also a Planning Board member, the term of office as a Commission member is the same length as the other board position. Vacancies shall be filled in the same manner in which the previous incumbent was appointed and such vacancy appointment shall be only for the balance of the unexpired term.

D. The Commission shall adopt internal rules and procedures for the transaction of its business, subject to the following:

- (1) The Commission shall elect from its members a chairman and a vice chairman.
- (2) A quorum for the transaction of all business shall be three members.
- (3) All Commission minutes and records are public records and all Commission meetings shall comply with the Open Public Meetings Act, N.J.S.A. 10:4-7, et seq.
- (4) The Commission shall employ, designate or elect a secretary who need not be a member of the Commission. The secretary shall keep minutes and records of all meetings and proceedings, determinations, and decisions. All such material shall be made public record.
- (5) Commission meetings shall be scheduled at least once every month, or as often as required to fulfill its obligations to advise the Planning Board or Town Council.
- (6) No Commission member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest.

E. A member of the Newton Town Council shall be designated as liaison between the Historic Preservation Advisory Commission and the Town Council.

F. The Historic Preservation Advisory Commission shall be responsible:

- (1) To review historic survey material and, if necessary, to update said material at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition;
- (2) To recommend to the Planning Board and the Town Council any additional sites to be designated as historic landmarks in accordance with the procedures established in section 139-9;
- (3) To conduct research on and, if necessary, to nominate any additional significant resources to the State and National Register of Historic Places. If the Town is certified under the State's Certified Local Government (CLG) program, the Commission shall, in accordance with the State's CLG guidelines, review and comment on all State and National Register nominations for historic resources within the Town of Newton;
- (4) To advise the Planning Board on how development and zoning applications affect historic landmarks in accordance with the procedure established in section 139-11;
- (5) To review all proposed actions, including those involving building permit applications, which affect the exterior architectural appearance of historic landmarks or improvements within the historic district ; to advise the Planning Board on the approval of said requests in accordance with the procedures established in section 139-12;
- (6) To review all proposed actions and applications for actions affecting the exterior architectural appearance of a historic landmark or an improvement within the historic district and to make recommendations to the Planning Board in accordance with the criteria outlined in section 139-13;
- (7) To advise the Town Council on the relative merits of proposals involving public lands to restore, preserve and protect historical buildings, places and structures, including the preparation of a long range plan; therefore securing State, Federal and other grants in aid to assist therein and monitoring such projects once underway;

- (8) To seek voluntary assistance from the public where helpful and practical and to secure professional assistance to assist the Commission in its work when within the Commission's budget as set forth by the Town Council;
- (9) To cooperate with local, County, State or National historic societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this Chapter;
- (10) To request the Town Council or its designated agent to seek, on its own motion or otherwise, injunctive relief for violations of this Chapter or other actions contrary to the intent and purposes of this Chapter;
- (11) To advise and assist the Planning Board during the preparation and/or update of the Municipal Master Plan, the Historic Preservation Plan Element of the Master Plan;
- (12) To prepare and distribute the historic district guideline handbook to be utilized for application reviews and foster appropriate rehabilitation within the historic district;
- (13) To undertake educational programs, including:
 - (a) the preparation of publications aimed at stimulating interest in and sensitivity to historic preservation and
 - (b) the placing of historic markers on structures;
- (14) To report at least annually to the Town Council on the state of historic preservation in the Town and recommend measures to improve same;
- (15) To collect and disseminate material on the importance of historic preservation and techniques for achieving same; and
- (16) To advise all Municipal agencies regarding goals and techniques of historic preservation.

139-9 Designation of Historic Landmarks, Historic Districts.

A. In addition to the structures already identified as within the old Newton core historic district, the Commission shall consider for landmark designation any additional buildings, structures, objects, sites and districts within the Town which merit landmark designation and protection, possessing integrity of location, design, setting, materials, workmanship or association and being:

- (1) Of particular historic significance to the Town of Newton by reflecting or exemplifying the broad cultural, political, economic, or social history of the Nation, State, or community at the time of its construction, or
- (2) Associated with historic personages important in National, State, or local history, or
- (3) The site of a historic event which had a significant effect on the development of the Nation, State, or community, or
- (4) An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering, or
- (5) Representative of the work of an important builder, designer, artist or architect, or
- (6) Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation, or

B. Based on its review or upon the recommendation of other municipal bodies or of concerned citizens, the Commission may make a list of additional landmarks recommended for designation. For each landmark, there shall be a brief description of the landmark, of the landmark's significance pursuant to the criteria in section 139-9A, a description of the landmark's location and boundaries, and a map siting. The Commission shall, by certified mail:

- (1) Notify each owner that his property is being considered for historic landmark designation and the reasons therefor;
- (2) Advise each owner of the significance and consequences of such designation, and advise him of his opportunities and rights to challenge or contest such designation;
- (3) Notify each owner of the public meeting to be held in accordance with section 139-9C.

C. The list of potential additional landmarks as well as the description, significance, location, boundaries, and map siting of each shall be subject to review at a Commission public hearing. At least ten days before such a hearing, a preliminary list and a map showing proposed additional landmarks shall be published, together with notice of the hearing in an official newspaper of the Municipality. At the hearing, interested persons shall be entitled to present their opinions, suggestions and objections on the proposed recommendations for landmark designation. The Commission shall then prepare a concise report, including a list and a map of its recommendations for sites to be designated as local landmarks. Copies of the report shall be delivered to the Town Manager, the Town Council, the Planning Board and the Town Clerk, and a notice of the action published by the Commission secretary in an official newspaper of the Town. The published notice shall state the Commission's recommendations and also that final designation shall be made by the Town Council at a public meeting specified on a date not less than 15 nor more than 45 days from the date of publication. The Town Council shall then consider the designation list and map, and may approve, reject, or modify same by ordinance. Once adopted, the designation list and map may be amended in the same manner it was adopted. Upon adoption, the designation list and map shall also be incorporated by reference into the Municipal Master Plan and Zoning Ordinance, as required by State enabling legislation.

D. Copies of the designation list and Official Map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and building permits. A certificate of designation shall be served by certified and regular mail upon each owner included on the list, and a true copy thereof shall be filed with the County Clerk for recording in the same manner as a certificate of lien upon real property.

139-10 When Review is Required by the Historic Preservation Advisory Commission.

A. Review.

(1) All permits and development applications involving all development activities that affect a historic landmark or an improvement within the historic district shall be reviewed by the Commission, except as set forth in section 139-10B of this Chapter. Such review shall be required for the following actions:

- (a) Demolition of a historic landmark or of an improvement within the historic district;
- (b) Relocation of any improvement within the historic district or of any historic landmark;
- (c) All changes in the exterior architectural appearance of any improvement within the historic district or of any historic landmark by addition, alteration or replacement;
- (d) Any new construction on the exterior of an improvement in the historic district;
- (e) Site plans or subdivisions affecting a historic landmark or an improvement within the historic district;
- (f) Zoning variances affecting a historic landmark or an improvement within the historic district.

(2) In making a recommendation on an application, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission shall also recognize the importance of making recommendations that will be reasonable for the applicant to carry out. Before an applicant prepares his plans, he may bring a tentative proposal to the Commission for informal review and comment.

B. Review by the Commission is not required:

- (1) When a historic landmark requires immediate emergency repair to preserve the continued habitability of the

landmark and/or the health and safety of its occupants or others. Emergency repairs may be performed in accordance with Town codes, without the necessity of first obtaining the Commission's review. Under such circumstances, the repairs performed shall only be such that are necessary to maintain the habitability of the structure. A request for the Commission's review shall be made as soon as possible and no additional work shall be performed upon the structure until an appropriate request for approval is made and obtained in accordance with the procedures set forth in this Chapter. All work done under this section shall conform to the criteria set forth in section 139-13 and the guidelines for review of applications as adopted by the Planning Board in accordance with section 139-8 of this Chapter.

(2) For changes to the interior of structures;

(3) For ordinary repairs and maintenance which do not constitute a change to the appearance of the structure. The following are the only activities which do not require Commission review according to these criteria:

(a) Repair of existing windows and doors using the same or approved alternate material. (See Appendix A) Installation of storm windows that are compatible with the architectural period or design of the subject structure;

(b) Maintenance and repair of existing roof material, involving no change in the design, scale, material or appearance of the structure;

(c) Repair of existing roof structures, such as cupolas, dormers and chimneys, using the same or approved alternate materials (see Appendix A) which will not alter the exterior architectural appearance of the structure;

(d) Replacement in kind or utilizing approved alternates (see Appendix A) of existing shingles, clapboards, or other siding maintaining the architectural integrity of the structure;

(e) Maintenance and repair of existing shingles, clapboards or other siding, using the same or approved alternate materials (see Appendix A) as that being repaired or maintained;

(f) Exterior painting of existing structures;

(g) Repairs to existing signs, shutters, garage doors, doors, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials, and sidewalks using the same or approved alternate materials (see appendix A) for those items noted above being repaired.

(h) For new or replacement signs refer to Chapter 320.

139-11 Procedures for the Commission's Review of Development and Zoning Applications.

A. For all applications presented to the Planning Board which affect a historic landmark or an improvement within the historic district, the property owner shall submit a historic landmark project review application to the Historic Preservation Advisory Commission for review. Such an application shall pertain solely to the proposed site review or zoning request. If building permits are required, these actions will be reviewed separately by the Commission in accordance with the procedures outlined in section 139-12 of this Chapter.

B. The Planning Board Secretary will forward to the Commission a complete set of all application materials.

C. The Commission's recommendation shall focus on how the proposed undertaking would affect a landmark's historic or architectural significance in considering the Commission's recommendations, the Planning Board shall be guided by the review criteria established in section 139-13 of this Chapter.

139-12 Procedures for the Commission's Review of Building Permits and Alterations.

A. Prior to undertaking any action affecting the exterior architectural appearance of a historic landmark or any building within the historic district, the property owner shall receive approval or signoff from the Zoning Officer or Construction Official.

139-13 Criteria for Review of Applications. In reviewing an application for its effect on a historic landmark or an

improvement within the historic district, the following criteria shall be used by the Historic Preservation Advisory Commission and the Planning Board. The criteria set forth in section 139-13A relate to all projects affecting a historic landmark or an improvement within the historic district. The criteria set forth in sections 139-13B through 139-13E relates to specific types of undertakings and shall be used in addition to the general criteria set forth in section 139-13A.

A. In regard to all applications affecting a historic landmark or an improvement within the historic district, the following factors shall be considered:

- (1) The impact of the proposed change on the historic and architectural significance of the landmark or the historic district.
- (2) The landmark's importance to the Municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.
- (3) The use of any structure involved.
- (4) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within the historic district from a public street.
- (5) If the application deals with a structure within the historic district, the impact the proposed change would have on the district's architectural or historic significance and the structure's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth herein.
- (6) Rhythm of Entrance and /or Porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with buildings and places to which it is visually related.
- (7) Roof Shape. The roof shape of a building shall be visually compatible with buildings and places to which it is visually related.
- (8) Scale of Building. The size of a building, the mass of a building in relationship to open spaces, the windows, door openings, porches and balconies shall be visually compatible with buildings and places to which it is visually related.
- (9) Directional Expression of Front Elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

B. In regard to an application for new construction, alterations, additions, or replacement affecting a historic landmark or an improvement within the historic district, the following factors shall be considered:

- (1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
- (2) Proportion of the building's front facade. The relationship of the width of the building to the height of the front elevations shall be visually compatible with buildings and places to which it is visually related.
- (3) Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with buildings and places to which it is visually related.
- (4) Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with buildings and places to which it is visually related.
- (5) Rhythm of solids to voids on facades fronting on public places. The relationship of solids to voids in such facades of a building shall be visually compatible with buildings and places to which it is visually related.
- (6) Rhythm of entrance and/or porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with buildings and places to which it is visually related.

(7) Roof shape. The roof shape of a building shall be visually compatible with buildings and places to which it is visually related.

(8) Scale of building. The size of a building, the mass of a building in relationship to open spaces, the windows, door openings, porches and balconies shall be visually compatible with buildings and places to which it is visually related.

(9) Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

C. Rehabilitation: Supplemental design guidelines which should be considered in evaluating the appropriateness of changes to a historic landmark or within the historic district are as follows:

(1) Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the building to which it is visually related.

(2) Walls of continuity. Appurtenances of a building such as walls, open type fencing, evergreens, landscape masses shall form cohesive walls of enclosure along a street to the extent necessary to maintain visual compatibility of the main building with the buildings and places to which it is visually related.

(3) Exterior features.

(a) A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways, and parking areas shall be compatible with the historic period for which the structure is significant. New signage shall also abide by any supplemental historic design graphic standards that may be developed by the Commission for the district.

(b) It is the intent of this Chapter to preserve the integrity and authenticity of the historic preservation districts and to ensure the compatibility of new structures therein.

D. In regard to an application to demolish a historic landmark or any improvement within the historic district, the following matters shall be considered:

(1) Its historic, architectural, cultural or scenic significance in relation to the criteria established in section 139-4.

(2) If it is within the historic district, the significance of the structure in relation to the historic character of the district and the probable impact of its removal on the district.

(3) Its potential for use for those purposes currently permitted by the Zoning Ordinance.

(4) Its structural condition and the economic feasibility of alternatives to the proposal.

(5) Its importance to the Municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.

(6) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could be reproduced only with great difficulty and expense.

(7) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design, or making the Municipality an attractive and desirable place in which to live.

(8) If it is within the historic district, the probable impact of its removal upon the ambiance of the historic district.

E. In regard to an application to move any historic landmark or to move any structure within the historic district, the following matters shall be considered:

- (1) The historic loss to the site of original location and the historic district as a whole.
- (2) The reasons for not retaining the landmark or structure at its present site.
- (3) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of interest and values referred to in this Chapter.
- (4) If the proposed new location is within a district, visual compatibility factors as set forth in section 139-13b.
- (5) The probability of significant damage to the landmark or structure itself.
- (6) If it is to be removed from the Town of Newton, the proximity of the proposed new location to the Town, including the accessibility to the residents of the Town and other citizens.

139-14 Effect of Project Approval, Denial, Appeal.

A. Approval by the Construction Official and Planning Board in accordance with the procedures in sections 139-11 and 139-12 shall be deemed to be final approval pursuant to this Chapter. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other municipal ordinance to be made prior to undertaking the action requested concerning the landmark or improvement in the historic district.

B. Denial of approval for a development application or of a building permit shall be deemed to bar the applicant from undertaking the activity which would affect the landmark or improvement in the historic district which was the subject of the denied application.

C. Demolition of Landmarks.

(1) The Planning Board, upon affirmative vote of a majority of its full membership, may postpone demolition of a landmark for up to one year. The Commission and the Planning Board may utilize this time period to consult with the Sussex County Historical Society, the New Jersey Department of Environmental Protection, or other similarly qualified organizations to ascertain how the Town may preserve the building and/or the premises. The Commission shall be empowered to assist the owner in developing plans to preserve the structure when moving or demolition thereof would be a great loss to the Town. When an applicant wishes to demolish a landmark, a building or structure on a landmark site, or a building or structure in the historic district, the Commission shall negotiate with the applicant to see if an alternative to demolition can be found. No municipal official shall issue a demolition permit for a landmark without review from the Commission and Planning Board approval. If it determines to postpone demolition, the Planning Board may request that the Town Council initiate such actions as may lead to the preservation of the premises within the one year hiatus.

(2) In its review of an application to demolish a site, the Commission may require the applicant to prepare a financial analysis which may include any or all of the following:

(a) Amount paid for the property, date of purchase, and party from whom purchased including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased.

(b) Assessed value of the land and improvements thereon according to the most recent assessment.

(c) For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record.

(d) All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property.

(e) Bona fide offer of the property for sale or rent, price asked and offered received, if any.

(f) Any consideration by the owner for a profitable, adaptive uses for the property.

(3) In making a recommendation on an application for demolition, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission shall also recognize the importance of making decisions that will be reasonable for the applicant to carry out.

(4) The Commission shall study the question of economic hardship for the applicant and shall determine whether the site or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his existing building. The Commission may ask applicants for additional information to be used in making these determinations, such as third party professional verification of structure stability or viability by a licensed professional in a qualified field, such as architecture or engineering.

(5) Prior to the issuance of a demolition permit, the Planning Board may require the applicant to provide documentation of the resource proposed for demolition. Such documentation may include photographs, floor plans, measured drawings, an archeological survey, and any other comparable form of documentation stipulated by the Commission.

(6) During the demolition, either members of the Commission or the Sussex County Historical Society shall be present to save, protect, and/or receive valuable parts of the building. There shall be the ability on the part of the Commission to conduct a dig at the site, if necessary. The site shall be properly restored after demolition, to include grading and landscaping.

D. When the Commission determines that an application before it be denied or its approval made subject to specific conditions which are found to be unacceptable to the applicant, then an appeal therefrom shall lie to the Planning Board of the Town of Newton. As a result of the subsequent decision by the Planning Board, should the applicant wish to seek further redress, then such appeal shall be filed for review directly to any court of competent jurisdiction according to law and pursuant to the rules of the court.

E. The granting or denial of approval for a building permit by the Construction Official may be appealed to the Planning Board in the same manner as if the appeal were taken pursuant to N.J.S.A. 40:55D-72 from any action by the administrative officer.

139-15 Penalties.

A. Any person who shall undertake an activity which would cause a change in the exterior architectural appearance of any historic landmark by addition, alteration, or replacement without first obtaining the approval of the Historic Preservation Advisory Commission or a zoning permit pursuant to Section 139-12 shall be deemed to be in violation of this Chapter.

B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner ten days to abate the violation by restoring the landmark or improvement to the condition it was in prior to the violation occurring. If the owner cannot be personally served within the Municipality with the said notice, a copy shall be posted on the site and a copy sent to the owner at his last known address as it appears on the Municipal Tax Rolls.

C. In the event that the violation is not abated within ten days of service or posting on site, whichever is earlier, the Zoning Officer shall cause to be issued a summons and complaint, returnable to the municipal court, charging violation of this Chapter and specifying the wrongful conduct of the violator. Each separate day the violation exists shall be deemed to be a new and separate violation of this Chapter.

D. The penalty for violation shall be as follows:

(1) For each day up to ten days, not more than \$100.00 per day.

(2) For each day from 11 days to 25 days, not more than \$150.00 per day.

(3) For each day beyond 25 days, not more than \$200.00 per day.

E. If any person shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within the historic district or of any historic landmark by addition, alteration, or replacement without first obtaining the approval of the Historic Preservation Advisory Commission, he shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the landmarks affected, pending a decision. If the project is denied, he shall immediately restore the landmark to its pre-activity status. The Zoning Officer is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten days after the delivery of notice pursuant to section 139-15B hereof. Such injunctive relief shall be in addition to the penalties authorized under 139-15D hereof.

F. In the event that any action which would permanently affect a historic landmark or historic district or a demolition to remove the landmark is about to occur without approval having been issued, the Zoning Officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.

G. The Historic Preservation Advisory Commission secretary, in the absence of the Zoning Officer or at such other times as may be permitted by law or as directed by the Town Manager, shall perform all of the duties of the Zoning Officer that were granted to said officer by this Chapter.

139-16 Powers of the Commission.

A. No duties or powers of the Commission shall supersede or infringe on the powers of other Town boards and committees.

B. If any section or provision hereof shall be adjudged invalid, such determination shall not affect the other provisions hereof which shall remain in full force and effect to the extent of such conflict or inconsistency, provided not otherwise required by law.

C. All ordinances and provisions thereof inconsistent or conflicting with the provisions of this chapter are hereby repealed to the extent of such conflict or inconsistency, provided not otherwise required by law.

APPENDIX A – APPROVED ALTERNATE MATERIALS:

1. Windows:
 - a. Welded vinyl or PVC windows provided they have a 5 star energy efficiency rating and are of similar appearance.
 - b. Fiberglass windows provided they have a 5 star energy efficiency rating and are of similar appearance.
 - c. Wood windows provided they have an energy efficiency rating and are of similar appearance.
 - d. Steel or aluminum windows for commercial structures provided that they have an energy efficiency rating and are of similar appearance.

2. Siding:
 - a. Vinyl siding or shingles provided that it has a 5 star energy efficiency rating and is of similar appearance.
 - b. Fiber cement siding or shingles, i.e. Hardiplank or recognized equal provided it is of similar appearance.
 - c. Engineered wood siding provided it is of similar appearance.
 - d. Brick veneer provided it is of similar appearance.
 - e. Stone veneer provided that it is of similar appearance.
 - f. Fabricated stone paneling provided that is of similar appearance.
 - g. Simulated stucco products provided they have insulating value.

3. Roofing:
 - a. Simulated slate shingles provided that they are 40 year wear.
 - b. Composite slate shingles.

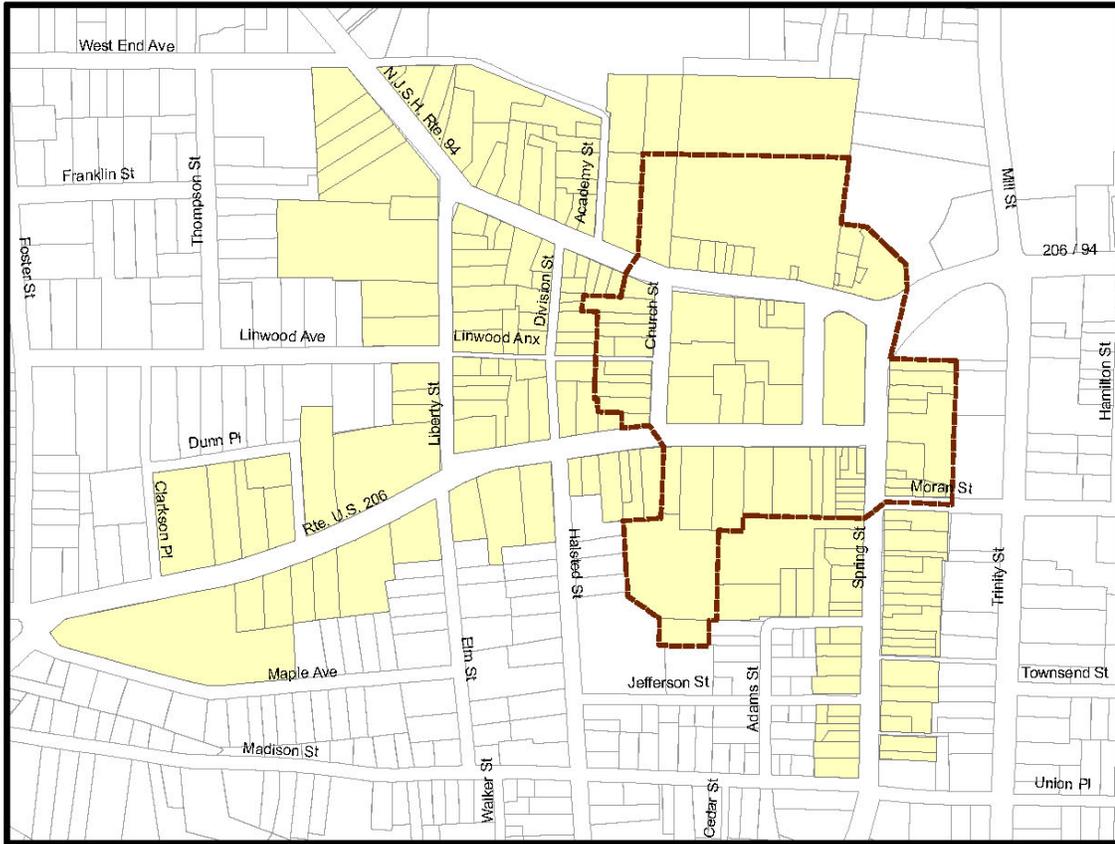
4. Architectural Elements:
 - a. Glass Fiber Reinforced Polymers provided that they are of similar appearance.
 - b. Cast stone provided that they are of similar appearance.
 - c. Glass fiber reinforced stone provided that they are of similar appearance.
 - d. Glass fiber reinforced concrete provided that they are of similar appearance.

5. Residential Doors:
 - a. Decorative fiberglass, vinyl, FRP, or steel provided that they are of similar appearance.

6. Commercial Doors:
 - a. Fiberglass, glass, FRP or steel provided that they are insulated and of similar appearance to door being replaced.

7. Signs and awnings may be added to a commercial structure or building as permitted in Chapter 320 Form Based Code of the Town of Newton Ordinances.

APPENDIX B – HISTORIC DISTRICT MAP:



Legend

-  (NJ & National Register)
-  Existing Local Historic District



"This map was developed using Sussex County Geographic Information System (SCOGIS) digital data, but this secondary product has not been verified by SCOGIS and is not county authorized."

"This map was developed using New Jersey Department of Environmental Protection Geographic Information System digital data, but this secondary product has not been verified by NJDEP and is not state authorized."

HISTORIC DISTRICT
 Town of Newton
 Sussex County - New Jersey



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