

BOROUGH OF NEWTOWN

NEWTOWN, CONNECTICUT

ZONING REGULATIONS

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PREFACE

“The primary purpose of zoning is to **conserve and promote the health, safety and general welfare of the people of the community**. Zoning regulations are designed to **protect existing developments** and to **give proper direction and control to future expansion and development**.”

Connecticut Development Commission
File No. FH74.01A

“Persons who 'pressure' their councilman or alderman into introducing and securing passage of 'spot zone' amendments that are purely for private and personal gain remind us of those individuals possessing a 'short cut complex' who invariably try to crowd into or near the front of a long line of people waiting to buy tickets to a ball game or show. They just won't conform with the conventions, customs and usages of their fellow man. Special privilege is their business and they are adept practitioners of the 'art'. The Golden Rule, as a practical and workable yardstick by which we may guide our lives and live in harmony and good order with our fellow citizens, . . . is distinctly distasteful to them.”

ZONING LAW AND PRACTICE Yokley (1953), Page 214
Permission Granted by the Michie Company,
Charlottesville, Va.

“The power to grant a variance in the application of established zoning regulations should be exercised charily. The obvious reason is that unless great caution is used and variations are granted only in proper cases, the whole fabric of town and city-wide zoning will be worn through in spots and raveled at the edges until **its purpose in protecting property values and securing an orderly development** of the community is completely thwarted.”

Heady v Zoning Board of Appeals
Mr. Justice Baldwin of the Supreme Court
of Errors of Connecticut
139 Conn. 463 at page 467.

STATUTORY AUTHORITY FOR ZONING IN THE BOROUGH OF NEWTOWN

Zoning was originally set up in Newtown under "An Act Revising and Amending the Charter of the Borough of Newtown," which was Special Act 290 (January, 1931) contained in Vol. XXI, Special Laws of Connecticut at Page 250. This Act contained numerous provisions concerning the general government of the Borough of Newtown and Sections 42, 50 and 51 thereof were concerned with zoning of the Borough.

SECTION 42 provided for the naming of a building inspector by the Warden and Board of Burgesses in May 1931 and annually thereafter.

SECTION 50 thereof included Sections 423 through 431 of the General Statutes, Revision of 1930, as amended thereafter, as a part of the zoning law of the Borough of Newtown.

The general zoning law contained in those sections as amended up to 1949 is now contained in Sections 836-848 of the General Statutes, Revision of 1949. These sections have been extensively amended since 1949, and reference must be made to the amending statutes for details.

SECTION 51 provided for the naming of a Zoning Commission by the Warden and Board of Burgesses.

The appointments of the building inspector and the Zoning Commission were not made within the time required by the Special Act of 1931, but the doings of the annual and special meetings at which the Warden and Burgesses were elected, and at which the Warden appointed various officers, were validated in 1933 by Special Act No. 345 contained in Vol. 21 of the Special Laws of Connecticut at Page 1004, and approved May 24, 1933.

The only other changes made in the Special Acts relating to zoning in the Borough of Newtown, are the following, all of which are contained in "An Act Amending the Charter of the Borough of Newtown," Special Act 106, Vol. XXVI Special Laws of Connecticut, Page 749, and approved April 9, 1953:

Section 1. Section 42 of number 290 of the Special Acts in 1931 is amended to read as follows: At the first regular meeting of the Zoning Commission, following the annual Borough election in May 1953, and annually thereafter, there shall be appointed by the Zoning Commission a building inspector to hold office for one year or until the next regular annual meeting of said Commission and he be responsible to said Commission. The building inspector shall possess such powers and perform such duties and services as the Zoning Commission may direct or as this act or the ordinances of said Borough may specify. He shall be diligent in causing the enforcement of, and in detecting violations of, the provisions of the General Statutes, this act or ordinance of said Borough relating to the construction, repair, alteration, demolition or removal of buildings and structures within said Borough, or relating to any matter within the scope of his powers and duties. If the construction of any building in the course of erection shall not conform to the provisions of the General Statutes of the ordinances of said Borough or the orders of the Zoning Commission of said Borough, he shall notify in writing the owner or owners, architects or builders, and if such

construction shall not be made to so conform within 90 days, he shall notify the Zoning Commission, which shall take action to cause such construction to be made in conformity thereto.

This changed the original Section 42 concerning naming of a building inspector in several ways, the chief of which was to require thereafter that the building inspector be appointed by the Zoning Commission instead of the Warden of the Borough, and that he be responsible to said Zoning Commission instead of to the Warden.

Section 2. Section 51 of said number 290 of the Special Acts of 1931 is amended to read as follows: At the annual meeting of said Borough to be held on the first Tuesday after the first Monday in May 1953, there shall be elected one member of the Zoning Commission for a term of 5 years from the date of said annual meeting and at said annual meeting thereafter one member shall be elected for said term of 5 years. Any appointed members of said Zoning Commission shall be filled by appointment by the remaining members of said Commission until the next regular annual meeting of the Borough. Said Zoning Commission shall be the zoning authority of the Borough of Newtown.

The above change made the Zoning Commission elected rather than appointed by the Warden, and provides for the filling of vacancies during the year by the remaining members of the Commission until the next regular annual meeting of the Borough.

Section 3. Said Special Act is amended by adding Section 52 as follows: At the annual meeting of said Borough to be held on the first Tuesday after the first Monday in May 1953, there shall be elected one member of the Zoning Board of Appeals for a term of 5 years from the date of said annual meeting and at said annual meeting thereafter one member shall be elected for said term of 5 years. Any appointed members of said Zoning Board of Appeals in office on the effective date of this act shall hold office until the term for which they have been appointed shall expire. Any vacancy which may occur in said Zoning Board of Appeals shall be filled by appointment by the remaining members of said Zoning Board of Appeals until the next regular annual meeting of the Borough.

This section added an additional section to the Special Acts of 1931 and provides for an elective Zoning Board of Appeals and the filling of vacancies as on the Zoning Commission. It was necessary to add this section because the Special Act of 1931 did not specifically provide for a Zoning Board of Appeals, but by incorporation of the General Statutes, Revision of 1930, under Section 427, there was set up a Board of Appeals to be appointed by the Zoning Commission.

ARTICLE 1 PURPOSE

These Zoning Regulations are promulgated to secure to the Borough of Newtown the protections and benefits provided by Chapter 124 of the General Statutes, Revision of 1958, as amended. They are designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate adequate provision for transportation, water, sewage, schools, parks and other public requirements, to conserve the value of the buildings and to encourage the most appropriate use of land throughout the Borough of Newtown. These Regulations and the Zoning Map constitute the comprehensive plan for zoning in the Borough of Newtown.

ARTICLE 2 DEFINITION OF TERMS

As used in these Regulations the following terms shall have the following meanings:

2.01

A. "ACCESSORY USE" shall mean a use customarily incidental and subordinate to the principal use being made of the lot, but not including any use specifically prohibited by 4.04 of these Regulations.

B. "ALCOHOLIC BEVERAGE" shall mean any beverage, the sale or dispensing of which requires a permit from the Connecticut Liquor Control Commission.

C. "ALCOHOLIC BEVERAGE OUTLET" shall mean any packaging store, restaurant, tavern, grill or other place where alcoholic beverages are sold, whether for consumption on or off the premises, except wholesale distributors, stores selling canned or bottled beer only, or drugstores dispensing liquor on prescription only.

D. "ASSISTED LIVING FACILITY" shall mean an elderly housing facility as defined in Section 19a-490(1) of the Connecticut General Statutes, that in addition to house, provides a variety of basic services such as nursing services and assistance with activities of daily living to a stable resident population. **[Added effective 04.24.17]**

2.02

A. "BOROUGH" shall mean The Borough of Newtown.

B. "BUFFER" - see "Natural buffer" and "Planted buffer".

C. "BUILDING" shall mean any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattels.

D. "BUSINESS BUILDING" shall mean a building, which may be comprised of more than one discrete building structure, none of which shall exceed 6,500 square feet of gross floor area, provided that

1) each such building structure is physically and visually separated;
and

2) all such structures are situated and oriented upon the lot so as to minimize the visual mass of the various components when viewed from any public way;

3) such structures are used for businesses, restaurants without drive-through service, or retail uses, including, but not limited to a liquor package store, or for banking, office or professional uses, or for shops where personal services are customarily provided directly on the premises, including, but not limited to barber shops, beauty shops, tailors, photographers, appliance repairs, opticians, travel agencies, custom photocopy, small equipment rental, food caterers, pharmacies, service agencies, specialized schools, secretarial services, and similar light convenience services, or any combination thereof, provided, however, that permanent sales and service areas of all such uses shall be wholly enclosed and there shall be no permanent outdoor storage of merchandise. **[#D Amended effective December 21, 2015]**

2.03

A. "CLUB" shall mean a group of persons organized solely for an ongoing recreational, social, patriotic, political, benevolent or athletic purpose or purposes, including without limitation, country clubs and fraternal organizations, but not including such a group of persons if the facilities operated by them are open to the general public, whether or not upon payment of a fee.

B. "COMMISSION" shall mean the Borough Zoning Commission.

C. "CORNER LOT" - see "Lot, Corner".

2.04

A. "DETACHED DWELLING" shall mean a dwelling surrounded on all sides by yards.

B. "DWELLING" shall mean a building capable of providing complete living quarters including complete kitchen and bathroom facilities.

2.05

A. "EMERGENCY SERVICE COMMUNICATION FACILITIES" shall mean communication equipment intended for the exclusive use of municipal and state emergency services, including police, public safety and fire services.

B. "EXTERNALLY ILLUMINATED SIGN" - see "Sign, externally illuminated".

2.06

A. "FAMILY" shall mean one or more persons related by blood, marriage or adoption living together as a single unit, including domestic help, but not including paying guests, boarders or roomers.

B. "FRONT YARD" - see "Yard, front".

C. "FRONTAGE" - see "Lot frontage".

2.07

A. "GARAGE" - see "Public Garage".

B. "GROSS FLOOR AREA" shall mean the sum of the gross horizontal area of the building measured from the exterior faces of exterior walls. Gross floor area shall include the area of the basements when used for residential, commercial, professional or industrial purposes, but does not include a cellar or portion of a basement used for incidental storage or housing of mechanical or HVAC equipment. **[Amended effective December 21, 2015]**

C. "GUEST HOUSE" shall mean an accessory building without kitchen facilities used solely for the accommodation of guests of the family making principal use of the lot for residence purposes and for which no rental or other charge is made or received, either directly or indirectly, in cash, kind of services. The maximum area of a guest house shall not exceed 15 percent of the area of the principal dwelling on said lot.

2.08

A. "HEIGHT, BUILDING, DWELING, OR OTHER STRUCTURES" - the vertical distance from the average finished ground level, measured 10 feet from the building, dwelling, or other structure footprint to the highest point of the structure.

B. "HOSPITAL" shall mean a place for the diagnosis, treatment or care of human ailments, including without limitation, a sanitarium, rest home, home for the aged, nursing home and convalescent home, but not including correctional institutions or places to which persons may be involuntarily committed.

C. "HOTEL" and "MOTEL" shall have the same meaning and shall mean a building or buildings in which rooms, each with private bath facilities, provide temporary lodgings to transients for a consideration and which may not provide a private outside entrance to each room or suite of rooms, rooms for public assembly, or rooms for the serving of food.

2.09

A. "ILLUMINATED SIGN" - see "Sign, externally illuminated" and "Sign, internally illuminated".

2.10

A. "JUNK YARD" means an area in excess of 200 square feet not completely enclosed in a permitted structure or building which is used for the accumulation, storage or disposal of waste, abandoned materials or used materials of any kind not being stored for immediate use on a lot.

2.11

A. "KENNEL" - see "Operating a Kennel".

B. "KITCHEN FACILITIES" are any room or part of a room used, intended or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall normally be considered as meeting the definition of a kitchen. **[Added effective November 11, 2020]**

2.12

A. "LIFGT OFFICE" means those office spaces that are used to support not-for-profit and charitable organizations or off-site professional uses." **[Added effective August 22, 2016]**

B. "LOCAL RESIDENTIAL STREET" -see "Street, local residential".

C. "LOT" shall mean a parcel of land, of any size or shape, occupied by one principal building or devoted to one principal use and containing the permitted accessory buildings and uses customarily incidental to such principal building or use, and including such open spaces as are required under the provisions of these

Regulations. Where land is undeveloped "lot" shall mean all contiguous land owned by the same owner or owners except subdivision lots owned by a person not required to obtain reapproval of the subdivision pursuant to 2.17 of the Newtown Land Subdivision Regulations effective October 1967. The mere recording or filing of a map in the Town Clerk's Office shall not constitute the creation of a lot.

D. "LOT COVERAGE" - the entire area of a lot covered by buildings, storage, loading, impervious surfaces, driveways, sidewalks and parking areas.

E. "LOT, CORNER" - a corner lot shall mean a lot bounded on 2 or more sides by intersecting streets, the street lines of which intersect with each other at less than 150 degrees.

F. "LOT FRONTAGE" shall mean the distance between the sidelines of a lot measured along the street line, or in the case of a corner lot, measured between the sideline on one side and the street line on the other. For purposes of this definition, the street line of a temporary turnaround (as used in the Newtown Land Subdivision Regulations) shall be the street line which would exist if the street were extended and the temporary portion of the turnaround eliminated.

2.13

A. "MAJOR COLLECTOR STREET" -see "Street, major collector".

B. "MINIMUM SQUARE" means a square each side of which is the length prescribed for the zone in which the lot is situated and which is capable of being drawn entirely within the boundaries and touching the minimum front setback line of a lot in said zone. No more than 20% of the minimum square shall be classified as inland wetlands as determined by field survey.

C. "MOTEL" -see "Hotel".

2.14

A. "NATURAL BUFFER" shall mean a space between the buildings, parking areas and uses on a lot and the lot line in which numerous trees exist, which is cleared of all rubbish and waste material, and which is sufficiently dense so as to obstruct the direct vision of the buildings, parking areas or uses on the lot on which it is located of a person standing on the adjacent lot not closer than 25 feet from the lot line.

B. "NURSERY SCHOOL" shall mean the providing of daytime care or instructions for not more than 15 children from 2 to 5 years in age, inclusive. Schools or places providing instruction or day care for more than 15 children or for children 6 years of age or older shall be considered private schools.

2.15

A. "OFFICE" shall have its customary use and shall mean a place within a building in which clerical, professional, administrative and non-personal services are carried out. It shall not be applicable to store, shop, bank, residential, restaurant or personal service uses.

B. "OFFICE BUILDING" shall mean a building devoted exclusively to office use. It may include one or more discrete building structures on the same lot devoted exclusively to office use".

C. "OPERATING KENNEL" shall mean the keeping or raising dogs for a profit or the keeping of more than 10 dogs over the age of 6 months without regard to profit."

2.16.

A. "PARKING AREA" - an authorized off-street area not within a building where motor vehicles are stored for the purpose of temporary, daily or overnight off-street parking.

B. "PARKING SPACE" means any area used or designated for use for the parking of motor vehicles.

C. "PERSONAL SERVICE ESTABLISHMENT" shall mean an establishment engaged in providing a service involving the care of a person, his or her apparel or his or her pets, including a barber shop, beauty parlor, day spa, nail saloon, day health club, shoe repair, tailoring or dressmaking, photographic studio, apparel rental services, counseling and pet grooming provided that pets are not kept overnight. **[Added effective August 22, 2016]**

D. "PLANTED BUFFER" means a strip of land dividing buildings, parking lots and uses on one lot from the boundary with an adjacent lot in which is planted two or more parallel rows of evergreen trees or evergreen shrubs of not less than 10 feet in height above ground with their lowest branches not more than 3 feet above ground. Said rows shall be at least 10 and not more than 20 feet apart and substantially parallel with the lot line, with the row closest to the lot line to be within 15 feet, but not closer than 10 feet to the lot line. Said trees shall be spaced 12 feet apart in said rows, alternating so that each tree is placed on a point in its row which is midway between the trees on either side of it in the adjacent row. Said trees must be maintained or replaced if necessary to provide continuous screening.

E. "POND" shall mean any body of water of any size created by excavation or impounded by the action of man and not existing as a natural condition in the Town.

F. "PROFESSIONAL BUILDING" is a structure that is used by Professional Persons and may include residential units, Personal Service Establishments and Light Office spaces. **[Added effective August 22, 2016]**

G. "PROFESSIONAL PERSON" shall mean an accountant, architect, dentist, lawyer, professional engineer, registered land surveyor or medical doctor, including without limitation, a physician, surgeon, optometrist, psychologist, psychiatrist, podiatrist, chiropractor or osteopath.

H. "PUBLIC GARAGE" shall mean a building, or a part thereof, used for the storage, care or repair of motor vehicles for remuneration, including without limitation, the keeping of motor vehicles for hire, but excluding sales rooms for the sale of new automobiles, farm equipment, trucks and motorcycles.

I. "PRINCIPAL PUBLIC UTILITY INSTALLATION" is a major utility infrastructure facility that constitutes a principal use on a parcel. **[Added effective April 20, 2015]**

J. "INCIDENTAL PUBLIC UTILITY INSTALLATION" includes facilities and structures that aid in the delivery of public utility services to the public, but does not include Public Utility Equipment. Such installations are considered incidental only insofar as they are minor in relation to the principal use on the lot and are limited in height to the average peak roof height of buildings any part of which are within 500 feet of the installation. **[Added effective April 20, 2015]**

K. "PUBLIC UTILITY EQUIPMENT" facilitates the delivery of public utility services to the public that is either underground or it occupies less than ten square feet of surface area, such as telephone, electric and/or cable poles, street and/or sidewalk lighting, wires, fire hydrants and access ways to underground utilities that do not project above the natural ground surface. **[Added effective April 20, 2015]**

2.17

A. "REAR YARD" - see "Yard, rear".

B. "RESTAURANT" shall mean an establishment preparing and serving food for consumption by patrons at tables or counters enclosed within the building where the food is served.

C. "ROOMER or BOARDER" is a person who resides in a dwelling, is not a member of the family unit that is the primary occupant of the dwelling and who pays for or performs services in exchange for such occupancy. This does not include a person who has separate facilities made available to him or her. **[Added effective November 11, 2020]**

2.18

A. "SETBACK" - the horizontal distance from any street line or lot line to any structure, measured in a straight line from and perpendicular to such street or lot line

B. "SCHOOL" shall mean any boarding, day or night school or college, including one conducted by the Town or State, in which full time academic instruction is offered for one or more grades.

C. "SHOPPING CENTER" means a lot containing one or more buildings integrated architecturally and in placement on the lot, devoted to various business enterprises, which use the parking and other facilities on the lot in common.

D. "SIDE YARD" -see "Yard, rear".

E. "SIGN" shall mean any device involving the visual sense, whether ordinarily defined as a sign or not, which is intended to bring attention to the subject thereof, including without limitation, illuminated structural features and extraordinarily bright lights placed or designed to attract attention.

F. "SIGN, EXTERNALLY ILLUMINATED". An externally illuminated sign is one which is artificially illuminated in any manner from sources not contained within the sign.

G. "SIGN, INTERNALLY ILLUMINATED". An internally illuminated sign shall mean a sign which is illuminated to any degree from sources of illumination, *except*

neon, contained within the sign itself and may include without limitation, distinctively shaped lights even though no writing or other designs appear thereon.

H. "SIGN, WALL". A sign which is built into or supported by a wall of a building or structure, but not merely painted on the surface of the wall.

I. "STATE" shall mean the State of Connecticut.

J. "STORY" shall mean that part of a building between a floor and the ceiling next above. An attic shall be considered a half story, unless the roof plate is more than 5 feet above the attic floor, or unless more than 60 percent of the attic floor is finished for habitable purposes, in which case it shall be considered a full story. A story which is not entirely above the average ground level at the foundation shall be figured at that fraction of a story which its height above average ground level bears to the total height of the story.

K. "STREET" shall mean any public highway over which the public has a right to pass and repass whether maintained by the Town or the State or any proposed street shown upon a final subdivision plan valid under the Newtown Land Subdivision Regulations effective October 2, 1967.

L. "STREET, ARTERIAL". An arterial street shall mean a street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Newtown Planning & Zoning Commission in the Newtown Plan of Development.

M. "STREET LINE" shall mean the line marking the boundary of the street right of way.

N. "STREET, LOCAL RESIDENTIAL". A local residential street shall mean a street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Newtown Planning & Zoning Commission in the Newtown Plan of Development.

O. "STREET, MAJOR COLLECTOR". A major collector street shall mean a street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Newtown Planning & Zoning Commission in the Newtown Plan of Development.

P. "STREET, MINOR COLLECTOR". A minor collector street shall mean a street, whether presently existing or proposed on a subdivision plan, which is officially classified as such by the Newtown Planning & Zoning Commission in the Newtown Plan of Development.

Q. "STRUCTURE" shall mean anything constructed whether or not the resulting structure is raise above ground. It may be constructed of natural or artificial material. Structures shall include without limitation, swimming pools, tennis courts, garages, and parking areas.

R. "STRUCTURAL ALTERATION" shall mean any change in a building or structure requiring a building permit under the State Building Code.

S. "SURVEY" shall mean class A-2 or better.

A. "TOPSOIL" shall mean earth materials, including loam, which are arable and which constitute the surface layer of earth material.

B. "TOWN" shall mean the Town of Newtown.

C. "TRAILER" shall mean a portable, primarily temporary living accommodation towed on wheels, transported on a truck or having its own motive power, which may or may not contain running water, bath facilities, a toilet, appropriate sanitary connections or cooking facilities.

D. "TRANSIENT LODGING" is that establishment that receives payment in any form of exchange for the use of any dwelling for one (1) month or less, including any hotel, motel, bed and breakfast, boarding house, hostel or the like. **[Added effective November 11, 2020]**

2.20

A. "WALL SIGN" - see "Sign, wall".

B. "WHOLESALE BUSINESS" shall mean the sale of merchandise or other commodities solely to retail or other dealers or tradesmen none of which is sold directly to members of the general public by the wholesaler.

2.21

A. "YARD, FRONT". A front yard is an open space across the width of the lot between the building or structure (other than driveways) nearest a street and the street line.

B. "YARD, REAR". A rear yard is an open space across the full width of the lot between the rear most building or structure (other than driveways) and the rear lot line.

C. "YARD, SIDE". A side yard is an open space extending from the front yard to rear yard between the side lot line in question and the nearest building or structure (other than driveways).

2.22

A. "ZONE" shall have the same meaning as the word "district" or "zoning district" as such terms are employed in Chapter 124 of the General Statutes of Connecticut, Revision of 1958, as amended.

ARTICLE 3 DESIGNATION OF ZONES

3.01 THE BOROUGH OF NEWTOWN IS HEREBY DIVIDED INTO THE FOLLOWING ZONES:

- A. FARMING AND RESIDENTIAL
- B. PROFESSIONAL ZONE
- C. BUSINESS
- D. INDUSTRIAL

3.02 ZONING MAP Said zones are bounded and defined on a map entitled "Borough of Newtown, Connecticut, Zoning Map", dated January 1, 2003 and filed with the Borough Clerk and which, with all explanatory matters thereon, is hereby made part of these Regulations.

3.03 ALL OFFICIAL ZONING MAPS of the Borough of Newtown approved prior to the adoption of these Regulations shall remain on file in the Office of the Town Clerk, but shall be considered merged into the Zoning Map referred to in 3.02. Said maps shall have validity only to the extent that a court of competent jurisdiction finds them necessary to determine the location of a zoning boundary which it finds not determinable from the map referred to in 3.02 hereof.

3.04 Where uncertainty exists as to the boundaries of zones as shown on the Zoning Map, the following rules shall apply:

A. Boundaries indicated as following streets, railroads, brooks or rivers shall be considered to follow the center lines of such streets, railroads, brooks or rivers.

B. Where a boundary line is shown parallel to a street, railroad, brook or river the distance given shall be considered measured to the center line of such street, railroad, brook or river.

C. Boundaries indicated as following identifiable lot lines or as being parallel or perpendicular thereto, or extensions thereof, shall be construed as following such lot lines or being parallel or perpendicular thereto, or extensions thereof, even though such lot lines are not drawn accurately or to scale on the Zoning Map.

D. Boundaries not indicated as following streets, railroads, brooks, rivers, lot lines or other natural features shall be determined by the scale of said Zoning Map.

E. If the boundary of a zone cannot be determined by any of the above means, a landowner may apply to the Commission and the Commission shall determine the location of the boundary.

ARTICLE 4 USES

4.01 THE PRINCIPAL USES PERMITTED in the zones indicated are set forth below. Only those principal uses are permitted and all others are hereby expressly prohibited.

4.02 Where the use is expressed as a building or structure, it is intended to refer to the use commonly carried on in said building or structure.

4.03 PROHIBITED USES

No use shall be permitted, even if otherwise listed as a permitted principal or accessory use, which causes or results in:

A. Dissemination of smoke, dust, observable gas or fumes, noise, odor, vibration or light beyond the lot on which the use is being conducted. Violation of the specific performance standards established by 4.14 of these Regulations for the zones in which they apply shall automatically be considered a violation of this Section, but this Section may also be found to be violated in any zone where the Zoning Enforcement Officer finds the existence of the items listed on the first sentence of this Section without regard to said performance standards.

B. Menace by reason of fire, explosion or other potential hazard to person or property.

C. Any discharge into the atmosphere, the ground or any brook or other body of water of any substance which, in the form and quantity discharged, will damage the environmental fauna and flora of the lot in question, or which will be harmful to persons breathing the atmosphere or drinking or bathing in the water of the lot.

D. Unsightly outdoor storage or accumulation of chattels or personal property. **[Amended effective March 3, 2014]**

4.04 PROVISIONS OF GENERAL APPLICATION **[Amended effective April 22, 2019]**

A. No business, commercial restaurant or professional use shall contain less than 800 square feet.

B. No discrete business, commercial, restaurant or professional building shall contain more than 6,500 square feet of gross floor area."

C. A building greater than 6,500 square feet of gross floor area and existing prior to the adoption of these regulations, shall be allowed to increase its gross floor area by no greater than ten (10) percent provided that:

1) The existing building footprint is not increased and, if the existing part of the building to be increased in gross floor area is within the required or pre-existing setback, the setback non-conformance shall not be increased, and

2) The increased gross floor area is required for an existing use in said building, and

3) There has been no previous gross floor area increase.

4.04.1 EMERGENCY SUSPENSION OF REGULATIONS **[Amended effective June 23, 2014]**

The Commission shall have authority to suspend operation of such of these regulations as may be done consistently with the Connecticut General Statutes and only in strict conformity with the following provisions:

A. 1) Upon an application submitted by the landowner, tenant or other person interested in a specified lot showing extraordinary hardship, substantial interference with an ongoing permitted use occasioned by fire, calamity, natural disaster or other sudden emergency and the proposed remedy, the Zoning Commission may, upon four affirmative votes, temporarily suspend in whole or in part, the operation and application of such of these regulations as will, in its judgment, alleviate said hardship for a definite period not extending beyond one year from the date of the occurrence.

2) Additional applications relating to the same occurrence may be granted by the Commission for additional definite periods not to exceed one year by four affirmative votes and only upon a satisfactory explanation of the reasons why the emergency giving rise to the first and any additional orders of suspension have not been resolved within the time period provided in the first order of suspension, plus additional applications, and a demonstration by the applicant of diligence in commencing and completing permanent repairs or otherwise resolving the hardship in such a manner and to such extent as is intended to continue the previous use of the property in terms of the nature, intensity and extent thereof.

The provisions of this paragraph shall be deemed applicable to any property for which one or more suspension applications have been approved prior to the effective date of the amendment to these regulations providing for previous suspension orders and, provided further, that any application submitted pursuant to this subparagraph is submitted within 30 days after the effective date of this amendment.

B. Upon the granting of such an application, the Commission shall state upon the record its finding with respect to the nature and date of the occurrence, the hardship found, the section or sections of these regulations which are affected by its order and the remedy allowed. No such application may be approved without a finding that such suspension will not adversely affect the health, safety or welfare of the people of the Borough of Newtown and will not substantially affect property values.

C. The filing of such an application shall not suspend the operation or effect of any cease and desist order issued by the Zoning Enforcement Officer.

4.04.2 It is the intent of these regulations to encourage, protect, enhance and perpetuate uses, structures and appurtenant vistas of historical value which represent or reflect elements of the Borough's cultural, social, economic, political or architectural history.

4.04.3 EMERGENCY SERVICE COMMUNICATION USES

"Emergency Service Communication Facilities" shall mean communication equipment intended for the exclusive use of municipal and state emergency services, including police, public safety and fire services.

There shall be allowed and permitted as a second or additional use of a parcel within the Borough, by special exception, upon the joint application of the property owner and the municipal agency affected, and upon the conditions contained in this section, the installation, maintenance and use of Emergency Service Communication Facilities, upon a showing, in addition to the requirements for a special exception, that:

- A. there is a specific articulated public safety need for such facilities that will be addressed and resolved by the installation, maintenance and use of the proposed Facilities,
- B. the proposed physical components of the Facility impose the least burden on the neighborhood in which they are installed and on the environment when considered in light of the foreseeable useful life of the technology in relation to the reasonable growth needs of the town,
- C. the installation, existence, maintenance and operation of the Facility will neither create nor increase a safety, quality of life or health problem,
- D. the proposed Facility is the best feasible solution to address and resolve the stated safety problem.

The application for the particular Facility and use shall:

- A. identify the applicants,
- B. identify, with particularity, the public safety problem to be addressed and resolved by the proposed Facility,

- C. describe, with particularity, the physical components required and proposed to address and resolve the stated safety problem, and
- D. describe other measures considered by the agency to resolve the safety problem which would not require a special exception under this section, and the reasons why the proposed Facility presents a solution that is sufficiently superior to the others as to justify an exception to the general prohibition of multiple uses for properties.

Any special exception granted pursuant to this section shall be for the use and the Facility described in the application. Any addition or expansion of such Facility is hereby prohibited in the absence of a subsequent exception granted pursuant to this section.

4.04.4 INCIDENTIAL PUBLIC UTILITY INSTALLATIONS AND EQUIPMENT

A. Reasonably necessary Public Utility Equipment is allowed in all zones in addition to the principal use on the lot and on land dedicated to public use, such as street right-of-ways, provided that its presence and/or location shall not present a hazard to persons or property.

B. Incidental Public Utility Installations are allowed in addition to the principal use on a lot in all zones by special exception, provided that with respect to residentially zoned parcels there is found an overriding need arising out of public safety or convenience.

[4.04.4 A and B added effective April 20, 2015]

4.05 RESIDENTIAL ZONES

No land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be, or is capable of being used except for one of the following principal uses, provided the Site Development Plan approval has been granted in accordance with Article 10 hereof, if so required.

A. One-family dwelling, one per lot.

B. Farming, including dairying, horse raising, sheep raising and poultry raising, but excluding operating a kennel or the raising of fur-bearing animals.

[Subparagraph C deleted effective March 3, 2014]

4.05.1 RESIDENTIAL OPEN SPACE DEVELOPMENT

A. Purpose and Intent: The intent of this regulation is to allow for greater flexibility and creativity in the design of single-family residential developments within the Borough of Newtown and to provide for larger areas of open space and the preservation of the unique natural features of land parcels in order to properly manage such growth.

B. Applicability: Any parcel or contiguous parcels consisting of more than 25 acres of land that lie entirely within a residential zone are eligible to apply for a Special Exception for an Open Space Residential development per §4.06K for the following uses:

1. Detached Single-Family Dwelling Units with attached or detached garages, which shall be served by a private street, maintained by and at the expense of a private homeowners' association.

2. A clubhouse, community center, cabana, picnic pavilion, pool, tennis court, or other passive or active recreation facility, exclusively serving the

dwelling units on the parcel and subject to all other area, height, and yard requirements of the underlying zone.

C. Any such development shall meet the standards and regulations for residential uses contained in these regulations, except that the standards contained in this subsection shall prevail over any conflicting standard otherwise applicable.

1. Density Calculation: The maximum number of dwelling units permitted shall not exceed 1.5 times the Developable Acreage, which is the total (gross) acreage of the parcel(s) minus any land having wetlands, watercourses, ponds, or steep slopes over 25%. In addition, the total number of units cannot exceed one per acre of the total (gross) acreage of the parcel(s).

2. Open Space: A minimum of 50% of the parcel must be set aside as preserved open space via a conservation easement in favor of the Borough of Newtown, resulting in the protection of the unique features of the parcel. The preserved open space may contain trails, bike paths, picnic tables, docks, un-motorized boat storage, and other features for passive recreation, but shall contain no structures nor permit motorized vehicles within.

3. Area, Height and Yard Requirements: Area, Height and Yard Requirements of the underlying zone and all other applicable sections of these regulations apply, and in addition:

a. Setbacks: In order to provide a buffer area to the neighboring parcels, the minimum setback from the public streetline shall be 200 feet or four times the regular setback for the underlying zone, whichever is greater. The minimum side and rear yards shall be 100 feet or four times the regular setback for the underlying zone, whichever is greater. No private street, driveway, parking area, or structure shall be within the minimum setback area other than that portion of a private street or required secondary accessway (if any), the sole purpose being for entrance or egress from the property to the street.

b. Minimum Distance Between Buildings: In no case shall the distance between buildings be less than twenty (20) feet, except for detached garages, which must be no less than five (5) feet from the dwelling unit they serve and twenty (20) feet from any other building.

4. Wastewater Discharge and Water Supply: Any lots considered for Residential Open Space Use shall have access to public sewers and public water, and any development shall be connected to public sewers and public water before final Certificate of Occupancy.

5. Utilities: All utilities on the lot shall be underground.

6. Steep Slopes: Site layout should be designed to minimize development upon and re-contouring of slopes having twenty-five (25) percent or more grades. Disturbance of steep slopes and the creation of steep slopes shall be avoided to the greatest extent possible.

7. Accessways, Private Streets, Driveways, Sidewalks, and Parking.

a. Accessways:

(1) Each Residential Open Space development shall be served by a strip of land having a width of not less than one hundred (100) feet

throughout its length from a public highway through which vehicular access is provided. This shall contain a private street as the primary accessway for ingress and egress.

(2) Each parcel containing forty (40) or more dwelling units shall have a secondary accessway suitable for use by emergency vehicles. The secondary accessway shall be not less than twenty (20) feet wide throughout its length. It may be located within the same strip of land as the primary accessway or in a separate location, but may not encroach upon the private street which is the primary accessway. The secondary accessway need not be paved with an impervious surface, however it shall be hard surfaced and accessible by fire apparatus. The secondary accessway shall remain unobstructed and shall be maintained at all times so that there are no impediments to emergency vehicle use.

b. Streets:

(1) The streets within the lot shall remain in private ownership and shall be designed for safe and easy circulation of traffic within the lot. The private streets shall be laid out with attention to the natural contours of the land and natural features on the lot. The private streets must be capable of providing easy access for all emergency vehicles.

(2) The design speed shall be 15 mph and so posted with proper signs. The minimum horizontal curve radius shall be 70 feet, the minimum stopping sight distance shall be 65 feet and the minimum sight distance for intersections shall be 70 feet. All other construction methods and materials of the private streets shall conform to the standards for a local residential street as set forth in the Newtown Road Ordinance, as amended, except that no easement, right of way or dedication of land to the Town or Borough shall be required for the private streets.

(3) All phases of the construction of the streets shall be inspected and certified by the applicant's licensed professional engineer. All certifications must be provided to the Newtown Land Use Agency prior to the release of any bonds.

(4) Intersection with public highway: Private streets shall enter a public highway only in locations where the sight distance in each direction meet or exceed the requirements of the Newtown Road Ordinance and any applicable state regulations. No private street shall enter a public highway less than seventy-five (75) feet from the centerline of the nearest intersecting highway or private street on the same side of the public highway. Proposed private streets shall intersect existing and other proposed streets at right angles for a distance of at least one hundred (100) feet from the intersecting street lines unless otherwise approved by the Commission. Such approval shall not be granted where the intersection is at an angle less than sixty (60) degrees.

c. Driveways: Each driveway serving dwelling units shall meet the following criteria:

(1) Travel width: The travel width of the driveway shall at no point be less than ten (10) feet. Driveways serving more than one dwelling unit shall be not less than sixteen (16) feet wide.

(2) Grading: Driveways within the lot shall not contain grades greater than five (5%) percent.

(3) All driveways upon the site shall intersect with the private street in the development. No driveway shall intersect directly with a public highway.

d. Sidewalks: As part of the granting of the special exception, the Commission may require the installation of a sidewalk along any portion of the parcel which fronts on an existing public highway.

e. Parking: Three parking spaces per dwelling unit shall be provided off the private street. Each parking space shall contain a rectangle no less than nine (9) feet in width and eighteen (18) feet in length. Parking spaces may be provided by use of a garage, driveway, or a paved surface dedicated to parking.

8. Lighting: All private streets and parking areas shall be artificially illuminated. Such lighting shall be residential in character and shall be coordinated with the landscaping plan. No direct rays from such lighting shall fall off the lot or shine into the windows of the dwelling units within the lot. All exterior lighting shall comply with the provisions elsewhere in these regulations.

9. Dogs: The limitations established in section §4.07 (E) shall not apply to Open Space Residential developments. For such developments, the keeping or boarding of dogs over the age of six months not for profit shall be limited to three per dwelling unit.

4.06 SPECIAL EXCEPTIONS – RESIDENTIAL ZONES

The following uses are permitted as principal uses subject to the granting of a special exception by the Commission in accordance with the standards, criteria, conditions and procedure which are set forth in 8.04 hereof:

- A. Places of religious worship.
- B. Schools and nursery schools.
- C. Principal Public Utilities such as substations, pump stations, regulator valve vaults, water tanks and sewage treatment plans, having no material or motor vehicle service or storage yards. **[Added effective April 20, 2015]**
- D. Intentionally omitted. **[Amended effective March 3, 2014]**
- E. Intentionally omitted. **[Amended effective April 20, 2015]**
- F. Public works garages and public storage areas operated by or on behalf of the Town.
- G. Cemeteries owned by the town, by a church, or a cemetery association located in Town.
- H. Parks and playgrounds operated by the Town.

I. Horticulture and wildlife reservations not operated for profit.

J. Governmental buildings and uses, public libraries, public museums, but not including dumps, incinerators and other garbage disposal areas, municipal garages, public works storage yards or commercial-type recreation facilities.

K. Residential open space development.

The minimum lot area for such special exception uses shall be computed as (1) 4 times the gross floor area of all buildings of the lot; (2) 2 times the area of the lot devoted to the proposed use, including without limitation, the gross floor area of all buildings and the area of all other structures, parking areas, loading areas and driveways; or (3) where a lot is split by a zone line the minimum lot area of the highest acre zone in which any part of the lot lies, whichever is greater. **[Amended effective March 3, 2014]**

4.07 ACCESSORY USES - RESIDENTIAL

Accessory uses are permitted. The following types of uses are considered accessory in all Farming and Residential Zones so long as they remain clearly accessory to the principal use on a lot and are limited as set forth below:

A. The office of a professional person on the premises which he owns and in which he resides.

1. The use does not change the residential character of the dwelling in any visible manner, nor shall there be any external evidence of the accessory use except a sign permitted by these Regulations.

2. Total floor area occupied by the accessory use does not exceed 25 percent of the floor area of the dwelling excluding the basement and the attic.

3. The use does not create interference with radio and television reception in the vicinity and does not create any noise, odor, vibrations, light or unsightly conditions outside the dwelling in which said uses are conducted.

4. There are no more than 3 persons employed on the premises, no more than 2 of whom may reside off the premises.

B. Nursery school.

C. Keeping not more than 2 roomers or boarders by a resident family in the dwelling, exclusive of domestic employees.

D. Storage of not more than one boat and/or trailer bearing current registration. Such boat and/or trailer shall be housed within a permanent structure or kept in the rear yard or side yard.

- E. The keeping or boarding of dogs over the age of 6 months not for profit as follows: Not more than 3 - any lot; not more than 5 - minimum lot size of 2 acres; not more than 10 - minimum lot size of 4 acres.
- F. One (1) Accessory Apartment attached to a single family dwelling provided all of the following criteria are met:
1. The lot shall have a minimum of one (1) acre unless served by public water and sewer.
 2. For those lots that have less than one (1) acre without public water and sewer, a zoning request for an Accessory Apartment, submitted under the provisions of 4.07.F, shall not increase the number of bedrooms of the existing dwelling or the gross floor area by more than 20 percent.
 3. The principle dwelling or the Accessory Apartment shall be occupied by the owner of the property.
 4. The Accessory Apartment shall be located in the same building as the single family dwelling with not more than one (1) bedroom, a kitchen, and a full bathroom, two (2) means of egress including a separate outside door and a maximum of two(2) occupants.
 5. Two (2) off-street parking spaces shall be provided for the Accessory Apartment in addition to those required for the principal residence. The driveway of the principal residence shall be at least nine (9) feet wide in accordance with 7.04.C.
 6. The rental period for the Accessory Apartment shall be greater than one (1) month and shall not be used for transient lodging.
 7. The principle dwelling shall have a minimum gross floor area of 1,500 square feet. The Accessory Apartment shall have a maximum gross floor area of 900 square feet or 40 percent of the gross floor area of the principle dwelling, whichever is less.
 8. No Accessory Apartment shall be located in a basement or cellar unless such basement or cellar constitutes a full story with exterior access on at least one half (1/2) of the foundation.
 9. The Accessory Apartment combination shall have a design that maintains the appearance of the premises as a single family house.
 10. Any request for zoning approval of an Accessory Apartment shall be accompanied by the following:
 - a. Approval from the Newtown Building Inspector that he or she has received the plans for the proposed Accessory Apartment from a safety point of view and has no objection to the use.
 - b. A statement from the District Sanitarian of the adequacy of the water supply and waste disposal system for the single family dwelling and the proposed Accessory Apartment.
 - c. An affidavit of ownership signed by the owner of the premises and affirming intent that the owner will occupy the premises as the principle place of residence.
 - d. New owners will comply with (a), (b) and (c) above.
 - e. If all of the 4.07.F criteria are met, the Zoning Enforcement Officer shall issue a Certificate of Zoning Compliance for the proposed Accessory

Apartment. The aforesaid certificate shall terminate when the owner of the premises (whether present or future) no longer resides thereon.

11. All existing Accessory Apartments (as of the effective date of this text amendment) shall comply with the criteria of 4.07.F within one (1) year of the effective date of this text amendment.

G. One (1) Detached Accessory Apartment.

1. One (1) apartment accessory to a single family dwelling located in a separate building (detached) provided that the following are met:

a. The lot shall have a minimum of one (1) acre and be served by public water and sewer. Lots greater than one and a half (1.5) acres do not require public water and sewer.

b. The principle dwelling shall be occupied by the owner.

c. The Detached Accessory Apartment shall be provided with not more than one (1) bedroom, a living room, a kitchen, a full bathroom and two (2) means of egress including a separate outside door and contain a maximum of two (2) occupants.

d. Two (2) off-street parking spaces shall be provided for the Detached Accessory Apartment in addition to those required for the principal residence. The driveway of the principal residence shall be at least nine (9) feet wide in accordance with 7.04.C

e. The rental period for the Detached Accessory Apartment shall be greater than one (1) month and shall not be used for transient lodging.

f. The principle dwelling shall have a minimum gross floor area of 1,500 square feet. The Detached Accessory Apartment shall have a maximum gross floor area of 1000 square feet or 40 percent of the gross floor area of the principle dwelling, whichever is less.

g. The single family dwelling and Detached Accessory Apartment combination shall have a design that maintains the appearance of the premises as a single family house. The separate building containing the detached accessory apartment shall be placed to the rear of the lot so as to minimize its view from the street.

2. Any request for a Detached Accessory Apartment shall be accompanied by the following:

a. Approval from the Newtown Building Inspector that he or she has reviewed the plans for the proposed Detached Accessory Apartment from a safety point of view and has no objection.

b. A statement from the District Sanitarian regarding the adequacy of the water supply and waste disposal system for the existing dwelling and the proposed Detached Accessory Apartment.

c. An affidavit of ownership signed by the owner of the premises and affirming intent that the owner will occupy the premises as the principle place of residence.

d. A site survey showing all structures upon the site, the lot area, set back distances, well and septic areas.

e. Floor plans for the proposed Detached Accessory Apartment with dimensions, means of egress and photographs or drawings of the building that is proposed for the detached apartment.

f. A copy of the Assessor's Card for the lot.

g. New owners will comply with (a), (b), (c), (d), (e) and (f) above.

h. If all of the criteria of 4.07.G are met, The Zoning Enforcement Officer shall issue a Certificate of Zoning Compliance for the proposed Detached Accessory Apartment. The aforesaid certificate shall terminate when the owner of the premises (whether present or future) no longer resides thereon.

3. All existing Detached Accessory Apartments (as of the effective date of this text amendment) shall comply with the criteria of 4.07.G within one (1) year of the effective date of this text amendment.

[4.07F + 4.07G Added Effective 11/11/20]

4.08 USES PERMITTED IN THE PROFESSIONAL-LIMITED BUSINESS ZONE

No land, building or other structure shall be used and no other building or other structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following uses provided the Site Development Plan approval has been granted in accordance with Article 10 hereof, if so required:

- A. One-family dwelling one per lot.
- B. A Professional Building containing less than 4,500 square feet of gross floor area.
- C. A one-family dwelling plus the office of a professional person. (The limitations contained in 4.07A hereof do not apply to the professional office within such one-family dwelling.)
- D. Residential units are permitted within a professional building provided that the residential area does not exceed fifty (50) percent of the allowed gross floor area of each professional building. The residential dwellings shall be located above any permitted professional use and:
 - 1. Shall be a minimum of eight hundred (800) square feet.
 - 2. Shall allow two (2) parking spaces for each residential unit.
- E. Personal Service Establishments are permitted with a professional building provided that the total square feet of such establishments do not exceed fifty (50) percent of the allowed gross floor area of each professional building.

F. Light Office uses are permitted in a professional building provided that the total light office space does not exceed fifty (50) percent of the allowed gross floor area of each professional building.

[Paragraph revised effective August 22, 2016]

4.08.1 PROFESSIONAL USES PERMITTED BY SPECIAL EXCEPTION

The following principal uses are permitted in a Professional Zone subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in 8.04 hereof:

- A. A Professional Building exceeding 4,500 square feet of gross floor area. Lot frontage shall be equal to at least $\frac{1}{2}$ the average depth of the lot, but not less than 150 feet. Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize said professional building at one time, which shall not be more than twice the number of spaces required under 7.05H. The requirements of 7.09 hereof shall otherwise be met except the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are otherwise required where needed to screen adequately adjacent residential zones, or to meet the standards set forth in 8.04, provided that the structural coverage including parking and loading area is not required to be reduced to less than 60 percent of the lot area. The wall of the office building facing the street shall not be longer than 200 feet or twice the distance which it is set back from the street line, whichever is greater. All portions of the lot in excess of 10 acres are excluded in determining maximum structural coverage permitted.

[4.08.1 Added effective August 22, 2016]

- B. Assisted Living Facilities may be erected only after obtaining special exception subject to the standards, criteria, conditions and procedures which are set forth in 8.04 and are subject to the following:
 1. Must have public water and sewer.
 2. Must border a major arterial road, not a secondary road.
 3. Minimum lot area: 3 acres.
 4. Maximum building size as specified in the definition of a Business Building in 2.02.D.
 5. Parking will be provided to accommodate at a minimum 1 space per 6 assisted living units plus 1 space per employee on the largest shift provided that there is no resident driving.
 6. Due to the diminished parking requirements, Assisted Living Facilities may have lot coverage (buildings only) up to 35%.
 7. In order to facilitate access to building entrances,
 - A. some of the required parking may be located to the front of the building(s) if the commission, in its discretion, finds that
 - 1) such location is reasonably necessary in light of the specifics of a proposed special exception development and
 - 2) the overall purposes served by the comprehensive zoning laws will not be significantly affected thereby.

B. Such front yard parking may be located, to the extent necessary, closer than 20 feet from the street line provided that it is adequately buffered.

[4.08.1B added effective 04.24.17]

4.09 USES PERMITTED IN A BUSINESS ZONE

No land, building or other structure shall be used and no building or structure shall be erected, altered or added to which is arranged, designed, intended to be or is capable of being used except for one of the following uses provided the Site Development Plan approval has been granted in accordance with Article 10 hereof, if so required:

A. A single or multi use Business building not exceeding 4,500 square feet.
[Amended effective March 3, 2014]

B. A bank.

C. A telephone exchange, electric substation or other public utility use.

D. A funeral parlor.

E. A restaurant without drive through service.

F. Governmental buildings and uses, public libraries, public museums, but not including dumps, incinerators and other garbage disposal areas, municipal garages, public works storage yards or commercial type recreation facilities.

G. Intentionally omitted. **[Amended effective March 3, 2014]**

H. Publishing, including associated printing operations.

4.10 BUSINESS ZONE USES BY SPECIAL EXCEPTION

The following principal uses are permitted in a Business Zone subject to obtaining a special exception from the Commission in accordance with the standards, criteria, conditions and procedures which are set forth in 8.04 hereof.

A. Any existing filling station may be used as a combination filling station and convenience store provided:

1. Adequate parking is provided for the store in accordance with Article 7 hereof in addition to parking provided for the filling station.

2. Groceries, hot and cold sandwiches, salads and other prepared edible food products are sold for use or consumption only off the premises; no space is provided on the premises or in the building for tables,

counters or other facilities designed to be used for eating and no food may be cooked; however, a microwave oven and warming ovens, appliances and other devices may be used for the preparation of sandwiches and heating prepared foods.

3. No door providing public access to the convenience store shall enter upon a yard in which gas pumps are located unless the distance between the wall containing said door and the edge of the gas pump island facing said wall is not less than 20 feet at the nearest point.

4. No person operating the gas pumps or otherwise servicing motor vehicles in the filling station area of the premises shall sell or dispense any food products in the convenience store portion of the premises, provided, however, nothing shall prohibit a cashier from acting as the filling station cashier, as well as the convenience store cashier.

B. A laundromat or dry cleaning establishment.

C. A shopping center.

1. The minimum area of a lot containing a shopping center is 4 acres.

2. Such lot need not have street frontage provided that it is served by a strip of land 100 feet wide, the lot line closest to the street is at least twice the distance from the street line as the required minimum lot width in the zone in which the land fronting on the street is located and a buffer is provided along the strip of land and between the shopping center lot and the rear yards of the land having street frontage, where required by the Commission.

3. Any other provision of these regulations notwithstanding, sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize the stores, shops, etc. in the shopping center at one time. The ratio of one space per 200 square feet of gross floor area shall be a minimum requirement.

4. More than one detached building may be placed on the lot. Building and parking areas shall be arranged in such a way as to promote the orderly and safe flow of traffic within the shopping center and promote the convenience and safety of pedestrians therein.

5. All buildings within a shopping center shall be in harmony with each other as to architectural design and exterior surfacing.

6. Intentionally omitted. **[Amended effective December 22, 2014]**

7. The requirements of Article 5 hereof shall otherwise be met except that the Commission may require wider buffers, wider side and rear yards and a deeper setback than are otherwise required where needed to screen adequately adjacent residential zones, or meet the standards set forth in 8.04, provided that structural coverage, including parking and loading areas, is not required to be reduced to less than 60 percent of lot area.

8. If the proposed shopping center has frontage on a street, the wall of any building running in the same general direction as the street shall not be longer than 200 feet or twice the distance which it is setback from the street line, whichever is greater.

D. Office or Business building exceeding 4,500 square feet of gross floor area. Lot frontage shall be equal to at least 1/2 the average depth of the lot, but not less than 150 feet. Sufficient parking spaces shall be provided to accommodate all persons reasonably expected to patronize said building at any one time, provided that in any mixed use Business building a minimum of five (5) parking spaces shall be provided for each 1,000 square feet of rentable space. The requirements of 7.09 hereof shall otherwise be met except that the Commission may require wider buffers, wider side or rear yards and a deeper building setback than are adjacent Residential Zones, or to meet the standards set forth in 8.04, provided that structural coverage including parking and loading areas is not required to be reduced to less than 60 percent of lot area. The wall of the building facing the street shall not be longer than 200 feet or twice the distance, which it is set back from the street line, which ever is greater. Lot area shall not exceed 10 acres unless all portions of the lot in excess of 10 acres are excluded in determining maximum structural coverage permitted.

E. A bed and breakfast.

F. Multi-specialty veterinary hospital providing, but not limited to, surgical, emergency, medical and oncology treatment for animals referred by outside veterinarians. Such a hospital does not provide routine or general veterinary services (i.e. vaccines, boarding or grooming). No outdoor runs are permitted and such a hospital shall be connected to public sewer.

G. Restaurant with outdoor service provided that such restaurant holds a Restaurant Permit in accordance with the provisions of Section 30-22 of the General Statutes as amended from time to time, and provided further that such outdoor dining area be enclosed by a wall or fence sufficient to reasonably ensure that access thereto is accessible only through the enclosed restaurant area. **[Amended effective December 22, 2014]**

4.11 ACCESSORY BUSINESS USES

The following uses are examples of uses considered accessory to business uses and will be permitted in all business zones so long as they remain clearly accessory to the principal use on each lot:

A. Outdoor electrical apparatus, the sole function of which is to provide electrical service to the buildings on the lot.

B. Adequately screened containers for the disposal of refuse which are emptied periodically, at least weekly. Except as allowed with an annual permit, storage of other machinery, equipment, merchandise or similar items outdoors is prohibited. **[Amended effective March 3, 2014]**

C. Exterior lighting, including without limitation, lighting for gasoline service station pumps and outdoor sales areas and storage, where permitted, except that all such lighting shall be so arranged that no direct rays therefrom fall off the lot on which it is located.

4.12 USES PERMITTED IN INDUSTRIAL ZONES

No land, building or other structure shall be used and no building or other structure shall be erected, altered or added to which is arranged, designed, intended to be, or is capable of being used except for the following principal uses provided the Site Development Plan approval has been granted in accordance with Article 10 hereof, if so required.

- A. In all Industrial Zones the following uses are permitted:
1. Laboratories devoted to research, design and experimentation.
 2. Operation of a public utility authorized to furnish service to residents of the Town.
 3. Buildings containing executive offices for a single corporation or related corporations, but excluding offices devoted to the sale of real or personal property to the general public on the lot in question.
 4. Printing and publishing establishments.
 5. Light industrial uses including manufacturing, fabricating, processing, converting, altering packaging, bottling or assembling of products, the operations of which are conducted solely within an enclosed building or group of buildings.
 6. Wholesale business.
 7. Storage in bulk of and warehouses for such materials as building material, clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, ice machinery, pipe, rubber, shop supplies, or wood. If storage is to be provided outdoors a planted or natural buffer shall be provided between the items stored and the front and side lot lines and between the items stored and the rear lot line if adjacent to a Residential Zone.

B. More than one principle use may be permitted in the same structure or building subject to the following:

1. Parking for each such use shall meet the requirements of Section 7.05.
2. Intentionally omitted. **[Amended effective March 3, 2014]**
3. Intentionally omitted. **[Amended effective March 3, 2014]**
4. Intentionally omitted. **[Amended effective March 3, 2014]**
5. A maximum of four (4) tenants shall be allowed.

4.13 ACCESSORY INDUSTRIAL USES

The following uses are examples of types of uses considered accessory and will be permitted in all industrial zones so long as they remain clearly accessory to the principal use on each lot:

A. Eating facilities for the accommodation of persons employed on the premises and for visitors but not open to the general public.

B. Garages to shelter vehicles owned by the person, business or industry occupying the lot and his agents and employees.

C. Outdoor electrical apparatus, the sole function of which is to provide electrical service for the operations conducted on the lot.

4.14 PERFORMANCE STANDARDS

No use permitted in an Industrial Zone shall be carried on in such a way as to violate any of the following performance standards. The charts and documents referred to below establishing the performance standards are on file with the Town Clerk of the Town of Newtown and constitute a part of these Regulations as set forth in full herein.

A. Smoke, Dust or other Air Contaminant. Smoke, dust or other air contaminant shall not be discharged into the atmosphere for a period or periods aggregating more than 3 minutes in any hour, which is dark or darker in shade than that designated as No. 2 in the Ringelman Chart, as published by the United States Bureau of Mines, or which is of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke, designated as No. 2 on the Ringelman Chart.

B. Noise. No sound pressure level shall exceed the decibel levels in the designated octave bands shown below. Sound levels shall be measured at the lot lines within which the subject use is located, and with a sound level meter and associated octave band filter manufactured in accordance with the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

<u>Maximum Permitted of Octave Bands of Cycles per Second</u>	<u>Maximum Permitted Sound Pressure in Decibels at Lot Line</u>
31.5	72
63	71
125	65
250	57
500	51
1,000	45
2,000	39
4,000	34

C. Odors. Offensive odors noticeable off the lot but within the Industrial Zone where the use is located shall not exceed the standards established as a guide by Table III (Odor Thresholds) in Chapter 5: "Air Pollution Abatement Manual," copyrighted 1951 by the Manufacturing Chemists Association, Inc., Washington, D.C.

D. Vibration. Vibration noticeable off the lot but within the Industrial Zone shall not exceed the standards developed by the U.S. Bureau of Mines, Bulletin No. 442, or any revision thereof.

ARTICLE 5

AREA, HEIGHT, BUILDING, YARD REQUIREMENTS

5.01 The regulations concerning the area of lots, height of buildings, yard dimensions and similar requirements for each zone are set forth in the following charts. Unless otherwise provided in the section by which a use of building is specifically permitted, no building, dwelling or other structure shall be erected, altered or added to except in conformity with the requirements of said charts. Where the section permitting a building or use states a requirement inconsistent with said charts, such as certain sections permitting uses by special exception, said section shall control.

5.02 HEIGHT LIMITATIONS

A. No dwelling, building or other structure may exceed 35 feet in height above average ground level regardless of the number of stories except buildings or structures used in farming not inhabited by humans.

B. The height limitations of these Regulations shall not apply to the spires, towers or belfries of churches, flagpoles, residential radio or television antennae, or electric utility transmission towers and cables.

C. Air conditioning units, elevator shafts and mechanical devices used in connection with manufacturing which cannot be placed at a height of less than 35 feet for engineering or technological reasons may be installed above the roof line of the building within the perimeter of the roof in an Industrial Zone provided:

1. Such structure is not more than 40 feet above average ground level or the height of such structure above the roof line is not greater than 50 percent of the height of the roof line, whichever is less.

2. The total square foot area of all such structures measured at their widest point shall not exceed 10 percent of the total square foot roof area.

3. The bulk of said structures, computed using the maximum dimensions for height and square foot area for each structure, shall be included in computing the bulk limitation required by 5.01 of these Regulations.

D. Municipal buildings and public schools may be erected to a height exceeding 35 feet provided that the front, rear and side yards shall each be increased by two feet for each one foot by which such building exceeds 35 feet.

Existing municipal buildings which, on May 22, 1995, exceed the height limitations contained in Section 5.02 of these regulations, may be altered or enlarged, provided that the maximum structure does not exceed the maximum elevation of the existing structure and provided further, that any such alteration or enlargement shall comply with all zoning and building requirement

5.03 SPECIAL YARD REGULATIONS

A. Corner Lots. All yards bounding on a street shall meet the minimum requirements for front yards whether or not said street is presently maintained by the Town.

B. Buildings housing horses, cattle, sheep or poultry, whether as a principal or accessory use of the premises, shall be located at least 100 feet from any property line.

C. There shall be no side or rear yard required in any Industrial Zone adjacent to a railroad right of way actually containing track.

D. ADA Structural Exemptions. Structural alterations to single family residences including but not limited to handrails or wheelchair ramps, which are necessary to provide access to individuals with a physical disability shall be exempt from the applicable minimum yard setback and maximum lot coverage requirements provided that the proposed structure meets the following criteria:

1. The proposed structural alteration must comply with applicable guidelines for the American Disabilities Act (ADA); and

2. A Certificate of Occupancy has been issued for the residence or the residence has been in existence prior to October 1, 1971. An A-2 survey shall not be required provided that the applicant can illustrate, to the satisfaction of the Zoning Enforcement Officer, the proposed structure is located wholly within the subject property boundary and access will not affect adjoining property or the public right of way.

5.04 SPECIFIC REQUIREMENTS FOR BUILDINGS & PLOTS

A. No building or structure shall be erected for business, professional, or industrial use unless built of materials and of building designs appropriate for a scenic, rural New England town, recognizing architectural scale, rhythm, and proportion, avoiding monolithic building forms the architectural appearance of which is devoid of traditional scale, rhythm, and proportion. It is within the purpose of this section to encourage the use of traditional materials and forms, along with fractured façades and roof forms in order to control the scale of the built environment and maintain, to the extent possible, the traditional character of the Borough of Newtown.

B. It is the intention of these Regulations that all structures and land used to be provided with sufficient amount of off-street parking area to meet the needs of persons employed at or making use of such structures or land uses. No permit for the erection of a structure or alteration of an existing structure in the excess of \$500.00 or for the development of a land use shall be issued unless off-street parking areas shall have been laid out in the plan, in accordance with the appropriate requirements for the

structure and uses set forth in this Section below, and approved by the Commission as provided in Paragraph F of this Section.

C. Structures and land uses in existence at the time of the adoption of these Regulations shall not be subject to the requirements set forth below, providing that any parking areas now existing to serve such structures or uses shall not be reduced in the future except where they exceed the requirements in which case they shall not be reduced below these Requirements. Required parking area for any enlargement or extension, shall, however, be provided as a condition for the issuance of any building permit for such enlargement or extension in the future.

D. When Business, Professional or Industrial Zones border any Residence Zone, no building permit for the erection or alteration of a structure in excess of \$500.00 or for the development of a land use shall be issued until a suitable landscape screen shall have been laid out on the Plan and approved by the Commission. Whenever the boundary between a Residence zone and a Business or Professional or Industrial zone shall be a street, the Commission may require the installation of a suitable landscape screen along said street line.

E. The plans for any commercial, professional or industrial building or structure or the alteration of existing structures for which site development plan approval is not required by the provisions of Article 10 but which will cost in excess of \$10,000.00 shall be submitted to the Commission for approval prior to issuing a Zoning Permit by the Zoning Enforcement Officer. Said plan shall show specifically the location and size of the off-street parking area and landscape screen which may be required to comply with this Section and the means of access to such parking area from the public street or highway. The Commission may withhold its approval from any plan which does not comply with the provisions of this Regulation or does not make adequate provision for safety to traffic on the public street, safety to pedestrians using the parking facility. Required plans shall be drawn and sealed by a licensed architect and/or engineer and/or surveyor and submitted in 5 copies.

F. Nonconformity of any lot in an R-1 Residence Zone with the specific requirements for plots in an R-1 Residence Zone contained in this Section 5.04 shall not prevent the erection, enlargement, alteration or maintenance on such lot of a building or buildings in accordance with the provisions of these Regulations which were applicable to such a lot immediately prior to December 14, 1963, provided:

1. Such lot is one which immediately prior to December 14, 1963, existed as a conforming or allowable non-conforming building lot under the Zoning Regulations of the Borough of Newtown then in effect.

2. Such lot shall not at any time on or after December 14, 1963, have adjoined other land directly owned, or indirectly, in whole or in part, by the same owner which would have enabled such owner to conform with the requirements of R-1 Residence Zones under these Regulations.

G. Nothing in the amendments to the Zoning Map, the Zoning Boundaries and the Zoning Regulations of the Borough of Newtown, effective December 14, 1963, shall be deemed to prevent the erection of a one-family house on any lot of less than required size shown on a map duly filed with the Town Clerk prior to May 1, 1956.

TABLE OF SPECIFIC REQUIREMENTS FOR BUILDINGS AND PLOTS
[Amended effective April 22, 2019]

	Farm& Resid	Prof.	Bus.	Ind.
Minimum lot area in acres	1	1	.5	2
Minimum lot width at street line:	150	150	150	250
Minimum set back (front yard)				
a. From the street line	50			150
b. From the center line of street	75			N/A
c. The average set back of exist- ing structures on the same side of the street within 150 feet of the side lines of the lot in question. (The greater of a) or b) for Farming and Residential; greater of a) or b) or c) for Industrial	-----	N/A	-----	-----
Minimum side and rear yards	25	25	25	50
Minimum side and rear yards adjacent to limited access highways	-----	N/A	-----	50
Minimum Square (see definition 2.13.B)	135	-----	-----	N/A
Minimum usable gross floor area, single story dwelling	800	1,500	-----	N/A
Minimum gross floor area, multi-story dwelling	1,200	2,250	-----	N/A
Maximum structural coverage in Percentage of lot area:				
a. Buildings alone	(See 4.06)	25%	35%	25%
b. Buildings, storage, loading, impervious surfaces, driveways, sidewalks and parking areas	0	60%	70%	60%
Bulk in cubic feet of all buildings, structures and materials stored outdoors shall not exceed the square footage of lot area times the following number	-----	N/A	-----	6
Planted buffer (Rows)	N/A	2	4	4

H. Any new lot created after [effective date of this regulation] shall contain an area of land at least equal to the minimum lot area in acres for the zone in which it is located exclusive of wetlands, watercourses, FEMA 100-year flood plains, and natural

slopes of twenty-five (25%) percent or greater. If the lot is a rear lot, then the area of the access strip of land intended for the driveway must also be excluded from the calculation of the minimum lot size.

ARTICLE 6

SIGNS

6.01 PURPOSE

Signage should enhance and not detract from the harmony and historic character of the Borough of Newtown while meeting the need for adequate business identification, advertising and visual communication. It is the responsibility of the Borough to promote public safety, protect property values, minimize visual clutter and enhance the physical appearance of the Borough. The intent of these regulations is to fulfill the aforementioned responsibilities and give due consideration to the protection and enhancement of the Borough of Newtown's historic character.

6.02 GENERAL PROVISIONS [Amended effective March 3, 2014]

- No zoning permits or site plans shall be approved if the proposed signage is not in conformance with these sign regulations.
- Directional signs shall contain no advertising.
- In all zones other than Residential, signs must be located on the same lot as the building or use to which the sign applies, the wording on the sign shall be limited to the name, trade name, address and profession of the person, organization, building, business or industry using the building lot or building, words descriptive of the items grown, produced, manufactured, sold or stored thereon or the services rendered thereon.
- If any lot lies in two (2) or more zones, the sign regulations for the more restrictive zone will apply to the entire lot.
- Window advertising signs are not allowed in any zone.

A. Relationship to the Streets.

1. In all zones other than Residential, no sign shall be located closer than twenty-five (25') feet from the paved or traveled portion of any road in any zone with the exception of names and addresses attached to mailboxes or signs placed flush against the front wall of a building in existence.

2. Signs shall not conflict with the following corner visibility requirements. Signs shall not be so located as to obstruct or interfere with the visibility of vehicular or pedestrian traffic; they shall not obstruct or interfere with the view of any traffic control sign, signal or device. The minimum required lines of sight are:

- a. local residential streets and unclassified streets – 150 feet;
- b. minor and major collector streets – 200 feet;
- c. arterial streets – 250 feet.

Where the paved or traveled portion of such street is widened, then any sign obstructing the new lines of sight shall be set further back to conform to these requirements.

6.03 DEFINITION OF TERMS **[Entire 6.03 amended effective March 3, 2014]**
Signs shall be classified by structural type and by functional type.

- A. Structural types of signs are defined as:
1. Freestanding Sign: a sign placed on the ground or supported by one or more uprights, poles or other supports placed in or upon the ground.
 2. Wall Sign: a sign attached to the exterior surface of the structure and to the unit to which it pertains, or forms the background surface of the sign and which does not project more than twelve (12") inches from the structure.
 3. Projecting Sign: a sign which is wholly or partly dependent upon a building for support and which projects more than twelve (12") inches from the building.
 4. Portable Sign: a sign which is not permanent and not affixed to a building, structure or the ground.
 5. Window Sign: a sign either (a) located on a window or (b) located within the building which can be viewed through the window of the structure.
 6. Hanging Sign: a sign that is suspended from the front of and parallel to the building structure. The sign shall not extend beyond the front of the structure. **[Amended effective December 21, 2015]**

- B. Functional types of signs are defined as:
1. Identification Sign: A Roadside Identification Sign or a Building Identification Sign free standing sign located on the premises which indicates the name, address and/or identifying symbol of a development containing a professional office building, a residential development, industrial park or commercial center, a shopping center, a school park, place of worship, hospital or other public or semi-private facility. **[Amended effective December 21, 2015]**
 2. Name-Plate Sign: located at the premises which indicates the name and occupation or profession of each occupant of the premises.
 3. Real Estate Sign: a sign which pertains to the sale, lease or rental of the premises, or a portion of the premises, on which the sign is located.
 4. Construction Sign: a temporary sign located on the premises on which construction is taking place during the period of such construction which may indicate the names of the design professionals, contractors, owners, financial supporters, sponsors and/or similar individuals or firms having a role or interest with respect to the structure or project.

5. Business/Professional Sign: a sign which directs attention to a business or profession on the premises on which the sign is located. Such signs shall include those of individual retail, wholesale, industrial, commercial and professional establishments.

6. Production Advertising Sign: a sign that promotes one (1) or more products or services except as defined above.

7. Directional Sign: a sign limited to directional messages for pedestrian or vehicular traffic.

8. Temporary Sign: a sign which is limited to a specific period of time.

9. Directory Sign: a sign that provides information to an interior building/occupant.

C. Other Definitions:

1. Interior Building: a building that does not have an accessible road frontage and is set back and behind a building with accessible road frontage.

6.04 SIGN AREA AND DESIGN [Entire 6.04 amended effective March 3, 2014]

A. Computation of Sign Area:

1. The area of a sign shall be computed from the outer dimensions of the frame, trim or molding by which the sign is enclosed. When a sign consists of freestanding letters, symbols or characters its area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols or characters.

2. When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to and within twelve (12") inches of each other. Otherwise, all faces of the sign shall be used to compute the sign area.

3. When a sign consists of two or more faces, only one face of the sign shall be used in computing the sign area if the faces are parallel to each other and part of a single sign structure. Otherwise, all faces of the sign shall be used to compute the sign area.

B. Design: The design of the sign shall not include moving parts or a material giving the appearance of motion.

6.05 STANDARDS FOR WALL SIGNS AND FREESTANDING SIGNS

A. Standards for Wall Signs:

1. No wall sign shall extend beyond the outer edge of any wall of the building to which it is attached.

2. A wall sign shall be parallel to the wall to which it is attached and shall not project more than twelve (12") inches therefrom.
3. No wall sign shall be painted directly on any wall.
4. No wall sign shall extend above the eaves of the building to which it is attached.

B. Standards for Freestanding Signs:

1. In residential zones, the height of any freestanding sign shall not exceed six (6') feet. In non-residential zones, the height of any freestanding sign shall not exceed the height of ten (10') feet. The height of the sign shall be measured from the ground to the top of the sign.
2. In all zones other than Residential, no part of any freestanding sign shall be located within ten (10') feet of any property line. In Residential zones, no part of any freestanding sign shall be located within ten (10') feet of any side property line.
3. Only one (1) freestanding sign shall be permitted on a lot even if there is more than one building or use on that lot.

6.06 SIGN ILLUMINATION

A. When a sign is externally illuminated, the light source shall be directed on that sign and shielded so that the beams or rays of light do not shine or directly reflect onto the adjacent properties or street and in harmony with the neighborhood.

B. An externally illuminated sign located on a lot adjacent to or across from the street from a residential zone shall not be illuminated between the hours of 10:00 P.M. and 7:00 A.M.

C. Illumination shall be non-animated and non-flashing.

D. Internally illuminated signs are not permitted.

6.07 PERMITTED SIGNS

Subject to these regulations, the following signs are allowed **without a permit**:

1. Not more than one (1) real estate sign for each lot is allowed on which the sign is located; such sign not to be illuminated or exceed six (6) square feet in area in residential zones or twelve (12) square feet in non-residential zones.

a. Real estate signs shall be removed thirty (30) days after the sale, lease or rental. **[Amended effective March 3, 2014]**

2. One (1) identification sign, not to exceed nine (9) square feet in area, to identify a public or semi-public facility. The identification sign for a place of worship, school, museum or similar institution may include as part of its sign area, a bulletin board on which messages and announcements of activities and programs can be displayed.

3. Intentionally omitted. **[Amended effective March 3, 2014]**

A. Subject to these regulations, the following signs are permitted for allowed residential uses in a Residential Zone with a sign permit:

For non-residential uses other than governmental buildings, one freestanding sign meeting the following requirements:

- the sign shall be of the hanging-type, supported by a single post;
- not larger than two (2) square feet with the longest side not more than three times the length of the shortest side;
- signs shall be located between the side property lines of the lot on which the referenced use is located, as extended to the center line of the street;
- no portion of such sign shall be located within ten (10) feet from the edge of that portion of the street designed for motor vehicle use.

B. Subject to these sign regulations, the following signs are allowed with a special temporary permit:

1. Temporary signs including banners, pennants, valances, flags, streamers, inflatables and A-frame signs provided that:

- a. a temporary permit has been issued by the Zoning Enforcement Officer indicating the nature, size, location and tenure of the signs;
- b. the permit shall be valid for a period not to exceed ten (10) days;
- c. the signs shall be removed within forty-eight (48) hours after the event to which they relate;
- d. such signs shall not be illuminated;
- e. Temporary non-banner type signs shall not exceed nine (9) square feet in area to include both sides and temporary banner signs shall not exceed ninety (90) square feet in area; and **[Amended effective March 3, 2014]**
- f. up to four (4) temporary sign permits may be obtained in any one (1) calendar year relating to a single location.

- g. Temporary sign permits may be obtained for charitable and other non-profit events within the Town of Newtown, non-recurring professional or business events such as grand openings, going out of business, clearance sales, seasonal promotions and events. **[Amended effective December 21, 2015]**

2. Subject to the requirements of the preceding section, only one (1) temporary banner or sign at a time, for public service, non-profit purposes, in connection with an event transpiring within the Borough or Town of Newtown, may be hung or posted over Queen Street, between its intersection with Church Hill Road and its intersection with Glover Avenue. Permits for such banner signs may be issued by either the Warden of the Borough or the Borough Zoning Enforcement Officer. **[Amended effective March 3, 2014]**

C. Subject to these regulations, the following signs are allowed in a professional zone with a permit: **[Entire Subparagraph C amended effective March 3, 2014]**

1. One (1) identification sign per property not to exceed eight (8) square feet in area; and

2. One (1) wall or hanging sign per building occupant not to exceed four (4) square feet in area or six (6) feet in length and affixed to their occupied space. The information on a wall or hanging sign, not to exceed (4) square feet, may be placed on an awning provided that a wall or hanging sign is not placed on the building. The wall sign, hanging sign, and signage on the awning shall be compatible with the distinctive character and architecture of the building. **[Amended effective April 22, 2019]**

3. For Professional zoned properties with multiple buildings, an additional directory sign not to exceed eight (8) square feet in area will be allowed for each interior building. The interior directory-style sign shall not be directly visible from a roadway.

4. Properties/buildings located in the Village District where all parking is located within the rear yard or rear of building shall be entitled to one (1) identification sign for each accessible road frontage and two (2) wall signs per building occupant, one visible from the street and the other visible from only the rear parking. Name plate signs not to exceed two (2) square feet in area may be used in lieu of the wall signs in the rear of the building and must be visible only from the rear parking.

D. Subject to these regulations, the following signs are allowed in a Business zone with a permit: **[Entire Subparagraph D amended effective March 3, 2014]**

1. One (1) identification sign per property not to exceed eight (8) square feet in area; and either

a. One (1) projecting business sign per building occupant not to exceed eight (8) square feet in area: or

b. One (1) wall or hanging sign per building occupant not to exceed fourteen (14) square feet in area, except that the business establishments having an excess of fifty (50) linear feet of building frontage shall be allowed an additional one (1) square foot of sign area for each five (5) linear feet of such building frontage, provided, however, that no such business establishment shall have a total sign area in excess of twenty-five (25) square feet. Up to (4) square feet of the wall or hanging sign allowance may be placed on an awning and will be included in the total sign allowance. The wall sign, hanging sign, and signage on the awning shall be compatible with the distinctive character and architecture of the building. **[Last amended effective April 22, 2019]**

c. For Business zoned properties with multiple buildings, an additional directory sign not to exceed eight (8) square feet in area will be allowed for each interior building. The interior directory-style sign shall not be directly visible from a roadway.

2. Properties located in the Village District and where all parking is located within the rear yard, shall be entitled to one (1) identification sign for each accessible road frontage and two (2) wall business signs per building occupant, one visible from the street and the other visible only from the rear parking. Each such sign shall not exceed fourteen (14) square feet in area, except that business establishments having in excess of fifty (50) linear feet of frontage shall be allowed an additional one (1) square foot of sign area for each five (5) linear feet of such additional frontage provided, however, that no such business establishment shall have any single sign that exceeds twenty five (25) square feet in area.

E. Subject to these regulations, the following signs are allowed in an Industrial zone with a permit:

1. One (1) freestanding sign not to exceed twenty (20) square feet in area; and

2. Two (2) industrial or name plate signs, as applicable, not to exceed four (4) square feet in area per building occupant; and either:

a. One (1) wall industrial sign per building occupant not to exceed fourteen (14) square feet in area, except that the business establishments having an excess of fifty (50) linear feet of building frontage shall be allowed an additional one (1) square feet of sign area for each five (5) linear feet of such additional frontage; provided, however, that no such industrial establishment shall have a total sign area in excess of twenty-five (25) square feet; or

b. One (1) projecting sign per building occupant not to exceed sixteen (16) square feet in area.

3. For Industrial zoned properties for multiple industries within the property, the freestanding sign area may be increased by two (2) square feet per industrial tenant with an industry in that property. The total freestanding signage shall not exceed twenty-four (24) square feet.

F. For Municipal buildings and Municipal uses (in a residential zone), signage allowances of 6.07.C.1 shall apply for one free standing sign, with a maximum of two sides, which directs attention to the governmental facility with additional sign area permitted for offices or uses and/or preexisting nonconforming uses on the premises on which the sign is located and/or specific events taking place therein or on the grounds thereof. The additional sign area shall not exceed two (2) square feet per office, use and/or specific event. Such event signs may be changed from time to time without prior approval and are limited to events taking place and such events as are planned to occur within the 30 days next following any change in the event sign. **[Last amended effective April 22, 2019]**

G. District identification signs shall meet the following requirements:

1. Not larger than five (5) square feet with the longest side not more than two (2) times the length of the shortest side.

2. The sign shall be of the hanging type, supported by a single post.

[Amended effective December 22, 2014]

H. Village District Identification and Business Sign **[#H added effective December 21, 2015]**

1. Properties in the Village District other than those zoned Residential and properties zoned Residential on which the principal use is not a residence shall be entitled to one (1) Roadside Identification Sign for each accessible road frontage and not more than two (2) wall signs per business occupant, one visible from the street and the other, where all parking is located within the rear yard, visible only from the rear parking area. Such wall signs may be composed of multiple parts if building design makes such a multi-part sign more consistent with Village District goals. Each such sign, including a multi-part sign, shall not exceed the wall sign square footage specified in each zone, except for establishments having in excess of fifty (50) linear feet of building frontage shall be allowed an additional one (1) square foot of sign area for each five (5) linear feet of building frontage, provided however, that no such establishment shall have any such sign that exceeds twenty five (25) square feet in area.

2. On properties located in the Village District containing Shopping Centers and multi-component business, professional and industrial developments on which an anchor or principal building structure is set back from the roadway at least two hundred (200) feet, such Shopping Center or business, professional or industrial development may have, in lieu of a Roadside Identification Sign, one (1) Building Identification Sign located either on the face of the building or on a roof element such as a cupola. Such Shopping Center or business, professional or industrial development with three (3) or more discrete business buildings may have up to two (2) Building Identifications Signs per center or development.

3. Building Identification Signs shall be set back from the travelled portion of the adjacent roadway at least two hundred (200) horizontal feet and be no larger in area than thirty (30) square feet, provided that four (4) additional square feet may be added for each additional hundred (100) feet the sign is back from the travelled portion of the adjacent roadway. Such signs shall otherwise conform to general sign regulations contained herein.

4. One additional projecting sign per tenant located at the main business entrance if the center or development has a pedestrian walkway. The sign shall contain the business name and will not exceed two (2) square feet.

6.08 SIGN PERMITS

A. No sign shall be constructed, erected, altered or otherwise changed except for signs specifically allowed without a permit as provided herein.

B. All sign permit applications shall be signed by the applicant and owner of the lot on which the sign will be located and shall be accompanied by the following:

1. For freestanding signs: a sketch drawing to scale of the building frontage façade, showing locations, dimensions and area of all existing and proposed signs on the premises; and

2. Plans and specifications of the proposed sign, including its dimensions, area, maximum and minimum height, proposed message and design, materials, colors, method of construction and illumination.

C. Where a building or use is allowed only upon the obtaining a special exception, all signs for such building or use shall be governed by these regulations. All signs for such building or use shall be part of the application for said special exception.

D. All permits shall be issued by the Zoning Enforcement Officer.

6.09 SIGN MAINTENANCE AND REMOVAL

A. All signs, together with their supports, braces, guys and anchors, shall be kept in good working order and safe condition.

B. The owner of the lot on which the sign is located shall be directly responsible for keeping such sign, including its illumination sources, in good working order and safe condition and maintained in its original condition.

C. Unsightly, damaged, deteriorated signs or signs in danger of falling shall be returned to their original condition or removed.

D. With the exception of real estate and temporary signs, all signs and their supports, braces, guys and anchors, which pertain to a business no longer conducted on the premises where such sign is located shall be removed by the owner of the lot on which the sign is located within five (5) days following cessation of the relevant activity. **[Amended effective March 3, 2014]**

E. Non-conforming signs shall be completely and totally removed at such time as the use changes or ownership of the business changes.

ARTICLE 7

PARKING, LOADING, LANDSCAPE AND SIDEWALK REQUIREMENTS

7.01 PARKING FACILITIES

Parking facilities meeting these Regulations shall be provided off the street-right-of-way for all new buildings erected, for all existing buildings which are enlarged to an extent exceeding 20 percent of the floor area existing on (effective date of these Regulations) and for all premises where the use is changed subsequent to said date. Parking facilities shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and others normally visiting the premises at any one time. For those buildings where on street parking is provided, twenty-five (25%) percent of the designed on street parking spaces within 500 feet of the property lot may be included in the minimum required parking spaces for that building. **[Amended effective December 22, 2014]**

7.02 Except as noted in Paragraph 7.01, parking facilities shall be on the same lot with the use used to compute the requirements for the number of off street parking spaces, except that in Professional, Business and Industrial zones the required off street parking facilities may be provided on a different lot, provided that (a) the nearest boundary of the paved portion of the parking facility is within 500 feet of the building lot on which the building use is being served, (b) that the right to use such off-site parking, whether the right is exclusive or shared, is secured to the primary site by long term agreement, and (c) off-site parking is located on the same side of the street as the principal use and is connected by sidewalks or equivalent pedestrian access. **[Amended effective December 22, 2014]**

7.03 A. Each parking space shall be capable of containing a rectangle 9 feet in width and 20 feet in length and be contiguous to a driveway permitting access to a street.

B. Driveways (other than driveways serving a single family residence without an accessory use requiring parking) contiguous to parking spaces to be used for one way travel, shall not be less than the following widths, whether or not the parking spaces are on one or both sides of the driveway:

1. 12 feet for parallel and 30 degree angle parking.
2. 15 feet for 45 degree angle parking.
3. 18 feet for 60 degree angle parking.
4. 20 feet for 90 degree angle parking.

C. Driveways (other than driveways serving a single family residence without an accessory use requiring parking) contiguous to parking spaces to be used for 2 way travel shall not be less than 20 feet wide no matter what the angle of parking.

7.04 A. No parking space shall be permitted closer than 20 feet from the street line, except for parking spaces existing at the inception of this regulation. Parking spaces are permitted within a setback area provided that:

1. The parking spaces were in existence or approved prior to the inception of this amendment, or

2. The parking spaces are to the rear of the lot or building so as to minimize the visibility from the street, and

3. The parking spaces are no closer than 20 feet from a street line, and

4. The parking spaces are allowed only to the extent of meeting the minimum parking requirements. Parking within the setback shall be minimized to the maximum extent possible, and

5. The parking spaces abutting a residentially zoned property comply with the buffering requirements of 7.09.A.3 of these regulations unless 7.04.A.1 applies.

6. The parking spaces for Assisted Living Facilities comply with section 4.08.G of these regulations. **[Amended effective April 22, 2019]**

B. Except for the parking required for a single family residence without an accessory use requiring parking, all parking spaces and areas shall have impervious, bituminous concrete or equivalent surfacing, shall be adequately drained so that water does not collect or stand on the surface, shall have each parking space clearly marked and driveways shall be marked to indicate the direction of travel. Provided, however, that approved pervious pavers may be used upon application therefore if:

1. the Commission finds that, if the proposed developments or any portion thereof are within a regulated wetland area or affects a regulated wetland area, the Inlands Wetlands Commission, after having fully considered the purposes of Sections 22a-36 through 22a-45 of the General Statutes and the factors contained therein, has previously found that the proposed use of pervious pavers, and the location and extent thereof, will have an acceptable degree of impact on the environment, provided, however, that the Commission may, upon the affirmative vote of four members override a finding of the Inlands Wetlands Commission under this section, and

2. the Commission finds that the proposed use of such pervious pavers

a. is consistent with the comprehensive plan and the Plan of Development, and

b. is reasonably necessary after considering the health, safety and convenience of the community, preservation of property values, the impact on density and traffic congestion and alternatives to their use.

C. Driveways (other than driveways serving a single family residence without an accessory use requiring parking) providing access to a parking area from a street shall be at least 9 feet wide if one way and 20 feet wide if two way, and if providing access to a parking area of more than 10 parking spaces shall not enter a public highway less than 75 feet from the center line of the nearest intersecting street on the same side of the street as the driveway.

D. The perimeter of any parking area in a Professional, Business or Industrial zone shall be provided with a curb not less than 6 inches in height appropriately backfilled with earth material. If the parking area on a lot serving a nonconforming use in a residential zone is paved or otherwise improved subsequent to the date of these Regulations, said curb shall also be installed.

E. Parking in Business and Professional zones will be to the rear of the building away from the street line. Placement of buildings shall not interfere with vehicular or pedestrian sight lines.

1. The perimeter of any parking area in a Professional, Business or Industrial zone shall be provided with a curb not less than 6 inches in height appropriately backfilled with earth material. If the parking area on a lot serving a nonconforming use in a residential zone is paved or otherwise improved subsequent to the date of these Regulations, said curb shall also be installed.

2. For all new construction and substantial reconstruction of buildings for non-residential uses, except those lots abutting Main Street, curbing of driveways and on the street shall be granite curbing, which shall have a beveled edge along the outside edge facing the street or drive. **[Amended effective December 22, 2014]**

7.05 The number of parking spaces set forth in the following schedule of requirements will be considered as the minimum required for each such use to meet the standards set by 7.01 hereof, subject to the exception provided by 7.06 below. The schedule is intended to be representative and not inclusive, and the minimum parking required by 7.01 hereof for permitted uses not specified herein shall be determined by reference to the most similar use for which a requirement is given. More parking spaces may be required where the Zoning Enforcement Officer reasonably determines that the nature of the use is such that more vehicles than the minimum number of spaces specified herein are probably going to be parked in connection with such use at one time.

A. Places of assembly with fixed seats, such as a theater, church, auditorium, or funeral parlor - 2 spaces per 6 seats. Where pews or benches are used as fixed seats, 2 spaces will be required per 9 linear feet.

B. Places of assembly without fixed seats such as banquet halls and club houses, including volunteer fire departments - one space for 100 square feet of gross floor area (limited in the case of volunteer fire departments to the area of the fire house used for meetings or banquets) subject to the exceptions of 7.06.

C. Bowling alleys - 5 per bowling lane.

D. INTENTIONALLY OMITTED. **[Amended effective December 22, 2014]**

E. Hotels or motels - one space for each bedroom, plus one for each employee on the largest shift.

F. Restaurant or Tavern - one space per 2 seats (or per 4 linear feet of bench), plus one for each employee on the largest shift.

G. Uses permitted by 4.09A shall require parking at the rate of one space per 200 square feet of gross floor area or part thereof, and any use permitted as an accessory use pursuant to 4.07A wherein articles are sold on the premises shall require parking at the rate of one space per 75 square feet of gross floor area or part thereof (limited in the case of residences to the area of the residence actually devoted to the accessory use permitted by 4.07A)."

H. Professional office buildings, the portion of buildings used for banking or publishing, and professional offices carried on as an accessory use pursuant to 4.07A - one per 250 square feet of gross floor area (limited in the case of residences to the areas of the residence actually devoted to the accessory use permitted by 4.07A).

I. All industrial uses and uses permitted by 4.09C - one per employee on the largest shift plus one per industry or business vehicle usually kept on the premises.

J. Roadside stands for a sale of agricultural produce or nursery stock - one space per linear foot measured on the longest dimension of the stand - not less than 10.

K. Single family residential dwellings - 2 spaces (which may be provided by the use of an enclosed garage or breezeway).

L. Dwellings carrying on an accessory use pursuant to 4.07A which is not a professional office nor any portion of which is devoted to retail sales - dwelling requirements plus one space for each employee not residing on the premises.

M. Nursery School as an accessory use pursuant to 4.07B - dwelling requirement plus one space for each employee or other supervising parent.

N. Where roomers or boarders are kept by a family pursuant to 4.07C - dwelling requirement plus one space for each roomer or boarder.

O. Public libraries - one space for each 500 sq. feet of gross floor area.

P. Use of Small Car Parking Spaces.

1. Uses obtaining approval of a site development plan for which the minimum number of parking spaces to be provided determined by application of Section 7.05 is at least 50 may utilize small car parking spaces containing a rectangle 8' width plus 16' length for not more than 25 percent of the total number of parking spaces provided. Uses existing on July 13, 1985 for which the minimum number of parking spaces which should be provided by application of Section 7.05 is at least 50 may modify their parking lots to utilize small car parking spaces for not more than 25 percent of the total number of parking spaces provided by application to and approval by the Commission. Any application to permit small car parking spaces for existing uses shall be accompanied by a survey plan of all parking lots and driveways serving the existing use, drawn to scale of not less than 1" = 40', certified by a registered land surveyor as meeting the A-2 classification of the Connecticut Technical Council. Said plan shall also show the information required by Subsection 7.05P.2 below and all other information and improvements described in this Article 7. Small car parking spaces shall not be allowed unless approved by the Commission under site development plan review or by application to an existing use.

2. Small car parking spaces shall be laid out in groups of four or more. Pavement markings shall be different from the regular sized parking spaces and shall contain the phrase "COMPACT VEHICLE ONLY" in letters not less than 9 inches high in each small car space. Pavement markings shall be maintained and repainted as needed to clearly delineate the difference between small car parking spaces and regular sized parking spaces. **[Amended effective December 22, 2014]**

7.06 Churches, theaters, banquet halls, and other similar uses, the parking requirements for which are likely to occur during hours other than ordinary business hours, may provide not more than 50 percent of the required parking space through the use of parking spaces provided by adjacent buildings and uses which do carry on the major portion of their business during ordinary business hours, provided the nearest boundary of said parking area is within 500 feet of the church, theater, bowling alley, banquet hall or similar use and provided further that the owner of said adjacent parking space notifies the Zoning Enforcement Officer in writing prior to the granting of any building permit to said church, theater, bowling alley, banquet hall or other business that said church, theater, bowling alley, banquet hall or other business may use said adjacent parking lot during other than ordinary business hours. Revocation of such permission by the owner of said adjacent parking lot shall be sufficient cause to revoke a building permit issued in reliance on said permission, or to refuse a Certificate of Occupancy, and if a Certificate of Occupancy has already been issued when such permission is revoked, said church, theater, banquet hall or other business shall

immediately conform to the requirements of 7.01 hereof or be subject to the penalty provided by the General Statutes for the maintenance of a use in violation of the Zoning Regulations.

7.07 A. Vehicles for which registrations are required to be obtained from the State of Connecticut before using the public highways, including without limitation, cars, trucks and trailers, which do not have a currently valid registration permitting them to travel on the public highways, except operable motor vehicles used on farms, shall not be parked or stored on any lot unless completely enclosed within a building or other structure.

B. Boats, boat trailers and unoccupied trailers having a current registration to use the public highways may be parked or stored (one of each) outdoors only if parked or stored in a rear or side yard as far from the lot line as possible.

C. Plumbers, electricians and similar artisans and tradesmen using panel, pickup or similar trucks in their trade or business may park said trucks on the same lot as the dwelling they occupy in any zone provided that no more than one such truck is so parked or stored on the lot per occupant engaged in such trade. Parking of light pickup and panel trucks not in excess of 1.5 tons capacity used for transportation by occupants of the lot, whether or not artisans, is also permitted.

D. Heavy Machinery and Equipment Generally Prohibited in Residential and Farming and in Professional Zones.

1. Except for equipment and vehicles operated by a public authority or public utility, and except as otherwise provided below, the presence of any piece of construction machinery or other equipment, dump truck, garbage truck or other heavy truck of a type not ordinarily used as a means of transportation for people exceeding 500 pounds gross weight ('heavy equipment') is prohibited in all Farming and Residential and Professional Zones whether or not used or owned by an occupant of the lot. Such heavy equipment, when parked or stored in other zones, and all operable motor vehicles used on farms which are parked or stored outdoors, shall be screened from the street and adjacent residentially and professionally zoned property. **[Amended effective December 22, 2014]**

2. Heavy Equipment Permitted in Certain Circumstances. The presence of heavy equipment is allowed in the following circumstances, provided, however, that the Work is diligently prosecuted:

a. Relating to Approved Site Plan or Special Exception. Heavy equipment may be present on properties in such zones only to the extent necessary to facilitate repairs and/or improvements to the property on which they are present (hereinafter, 'the Work') provided that specific

provision therefore has been made in any Site Plan or Special Exception approval.

b. Relating to Building Permits for Work by Independent Contractors. Any property owner or person in control of property may have heavy equipment on Residential and Farming or on Professional zoned property in conjunction with, and only insofar as is necessary for the completion of the Work by an independent contractor for which a building permit has been issued in advance; provided that any such time period shall not exceed 45 consecutive days from the beginning to the end of the Work period.

c. General Permit. Any property owner or person in control of property may have heavy equipment having a gross weight in excess of 500 pounds on Residential and Farming or on Professional zoned property in conjunction with, and only insofar as is necessary for the completion of the Work one time for a period of not more than seven consecutive days in any 3-month period pursuant to the General Permit established by this subsection.

Any property owner or person in control of property may have heavy equipment having a gross weight of 2,000 pounds or greater on Residential and Farming or on Professional zoned property either in conjunction with, and only insofar as is necessary for the completion of the Work one time for a period of not more than 48 consecutive hours in any 3-month period pursuant to the General Permit established by this subsection.

Heavy machinery or equipment owned by or under the control of any licensed tradesperson may be present on Residential and Farming or on Professional zoned property belonging to others during the time necessary to effect improvements or repairs contracted by the property owner or occupant.

d. Heavy Equipment Permit. Any property owner or person in control of property may have heavy equipment on Residential and Farming or on Professional zoned property in circumstances other than those specified above with a Heavy Equipment Permit. The Zoning Enforcement Officer may issue up to four Heavy Equipment Permits in any 12-month period for not more than ten days each with respect to any single property. The Zoning Enforcement Officer shall refer all other applications to the Zoning Commission for review and action thereon.

The applicant for any such permit shall provide the following information and such other information as may assist the issuing authority

in determining the necessity for the presence of such equipment on the property for the period for which the application is made:

- i. the name of the property owner and the address of the property;
- ii. a description of the nature and extent of the Work;
- iii. the proposed beginning and ending dates of the Work;
- iv. a description of the types and number of pieces of heavy equipment required for accomplishment of the Work;
- v. a statement of the proposed workforce expected to be engaged in accomplishing the Work; and
- vi. the reason, if any, why the presence of such heavy equipment for periods in excess of those provided for generally is necessary to the accomplishment of the Work.

Copies of such application(s) and/or permit(s) may be distributed to the Zoning Enforcement Officer, the Building Department, the Inland Wetlands Agency and/or other governmental agencies as deemed appropriate.

7.08 A. Space for loading and unloading shall be provided by all hospitals, hotels, restaurants, retail business, wholesale business and all manufacturing and other industrial uses at the rate of 400 square feet for each 15,000 square feet of floor area or fraction thereof up to 30,000 square feet, and 400 square feet for each 30,000 square feet of floor area or fraction thereof in excess of 30,000 square feet. Parking spaces required by 7.01 hereof may not be used to provide the required loading space.

B. The required loading space shall have adequate concrete, bituminous concrete or equivalent surfacing, and all artificial lighting used to illuminate the loading space shall be so arranged that no direct rays from such lighting fall off the lot containing said loading space.

7.09 LANDSCAPE REQUIREMENTS

Site development in all zones shall preserve major trees and existing landscape features wherever possible, and provide intensive replanting of all disturbed areas to control erosion, to moderate climatic extremes, and to preserve the rural residential quality of the community.

A. Landscaping:

The many mature trees in the Borough of Newtown are to be maintained to the extent possible consistent with a high quality overall design for the site.

1. Landscape plans are required for all applications. Plans shall provide the following information:

- a. A plan showing the grade of the landscape.
- b. A maintenance plan including an irrigation or a drip irrigation system.
- c. A plan for complete screening of utility installations, trash, fences, parking, outbuilding, storage areas, loading areas and lighting.

2. Plants should be selected with consideration of location and overall effect upon neighboring properties and streetscape. Provide the plants common and scientific names, size of plant ball or caliber, plant height at installation and height at maturity, form, growth habit and expected life span, plants disease and pest resistance and where near road or driveways, the salt resistance. Invasive plants are not permitted. Plants listed on University of Connecticut's invasive plants list are not permitted.

3. All non-residential lots abutting residentially zoned property shall maintain an effective planted buffer of at least 50 feet in depth along the common boundary with such residentially zoned property in accordance with Section 2.16.B, provided, however, that if the Commission finds that site conditions or lot configuration present exceptional difficulty in providing that depth of buffer but sufficient alternative buffering measures can be employed to protect the residentially zoned property, or in the event that any such abutting residentially zoned property is devoted to a use that would require a special exception pursuant to these Regulations, and a 50 foot buffer is not reasonably necessary to protect such special exception use from the proposed activity on such non-residential lot, then the Commission shall have the authority to approve a landscaped buffer less than 50 feet in depth. The landscaped buffer requires sufficient depth and density of planted, natural growth, fences or masonry walls to form an effective buffer, as determined necessary by the Commission.

B. Types of Landscape Treatment:

1. Details of the proposed planting shall be shown on the required site plan, including location, specie, initial and mature size, density, and spacing of all plantings and other significant landscape features.

2. Various types of landscape material required are:

- a. Shade trees; for purpose of summer shade for roads, parking, buildings and activity areas. Requires hardy deciduous trees, minimum 2-inch caliper 12 inches above ground, with shade tolerant ground cover (ground cover plants, low shrubbery, grass or mulch) in adjacent ground area.

- b. Slope plantings: for purpose of stabilizing cut banks and controlling erosion. Requires hardy shrubs, erosion-resistant plants and vines, terracing, stabilized rock cuts or retaining walls wherever slope would exceed 1.0 : 1.5 (vertical : horizontal), rip-rap or stabilizing planting along created drainage channels.
- c. Open Landscaping: for purpose of site aesthetics, building enhancement, recreation. Requires perennial grass or ground cover, suitable shrubs, trees or ornamental plantings, regularly maintained for attractive appearance.
- d. Screening: for purpose of visual concealment of specific areas (such as parking and commercial areas). Requires either dense evergreen hedge in double offset rows, of hardy type with full growth at ground level and at least 8 feet in height, fences or masonry walls, or both, as determined necessary by the Commission.
- e. Natural Buffer: for purpose of interrupting light, sound and visibility between incompatible uses through retention of natural woods and dense undergrowth. Requires sufficient depth and density of natural growth for effective buffer, and may require supplemental planting as determined necessary by Commission.

C. REQUIRED LANDSCAPED AREAS - MINIMUM TYPE REQUIRED

<u>LOCATION</u>	<u>TYPE</u>
Surrounding parking lots and non-residential uses (including buildings, storage and all activity areas) in Residential Zones.	Screening, planted buffer, or effective natural buffer.
Parking lot islands, and adjacent to paved parking in all Zones.	Shade trees at average spacing of 30 to 40 feet plus landscaping or natural buffer.
Bank slopes within and adjacent to developed areas in all Zones.	Slope Plantings
Roadsides, in all non-residential zones. to 40 feet plus appropriate open landscaping or natural buffer.	Shade trees at average spacing of 30

Adjacent to Residential Zone
Boundary lines, in all non-residential
zones.

Screening or effective natural buffer,
planted buffer, fences, masonry walls
or the combination.

Front, side and rear yards, wherever
roadways or available for
Planting, in all Zones.

Open landscaping, natural buffer, or
visible combination of both.

D. Suitability of Plantings

1. Plantings chosen must be well suited to environmental conditions, properly installed and located to serve intended purposes (see Sections 7.09A and 7.09B).

2. Placement of plantings shall not interfere with safe visibility at road intersections or exit driveways, nor cast dense winter shadows on potentially icy roadways.

E. Maintenance

1. The owner of the site shall be responsible for proper maintenance of all plantings and other installed landscaped features as shown on the approved site plan, and for replacement of such in event of its non-thriving, demise or destruction.

2. The Commission may require a performance bond, to remain in effect at least three years, to assure the proper survival or replacement of plantings and landscaping shown on the approved site plan.

F. Street Trees

Trees for the purpose of planting under power lines, adjacent to public roads, and within twenty-five (25) feet of buildings. Street trees must grow no more than thirty (30) feet at maturity, must be non-invasive and must not be on the Connecticut Banned Plant List (UCONN). Street trees that are selected must thrive in the following conditions:

a. Minimal amounts of water, road, deicing salts, restricted root zones, soil compaction, high soil alkalinity to leaching from cement, low soil fertility, poor soil structure, pollution and toxins, winds created by clusters of buildings, radiated heat and light, and people pressure.

[Amended effective December 22, 2014]

7.10 LIGHTING REQUIREMENTS for BUSINESS, PROFESSIONAL and INDUSTRIAL USES

A. General: The following regulations shall apply to the provision of any outdoor illumination in connection with a use of land, buildings and other structures within the Borough. The purpose of this section is to enable the provision of sufficient outdoor illumination for safety, convenience and security while minimizing sky glow, safeguarding against discomfort glare and disability veiling glare, minimizing the trespass of light on adjacent properties and avoiding the adverse effects from illumination upon the use, enjoyment and value of property and upon the appearance and beauty of the Borough.

B. Definitions: For the purpose of these Regulations, certain lighting terms are defined as follows.

1. Foot Candle: A unit of illumination (light flux on a surface); one foot candle equals one lumen of light flux distributed evenly on one square foot of surface.

2. Foot Lambert: A unit of brightness (light seen by the eye); one foot lambert equals either one lumen of light flux reflected by one square foot of a reflecting surface or one lumen of light flux emitted or transmitted by one square foot of a diffusing surface.

3. Luminaire: A complete lighting unit consisting of a lamp or lamps, together with any reflectors, refractors, diffusers, baffles or other devices to distribute the light, and with parts to position and protect the lamps and to connect the lamps to the power supply.

C. Standards: Outdoor illumination that is subject to this Section shall conform to the following standards:

1. Glare: All outdoor illumination shall be provided and maintained in a manner that safeguards against discomfort glare and disability veiling glare in any street and upon pedestrian ways and vehicular parking, loading and circulation areas on the lot where located and on any other lot.

2. Area Lighting: Area lighting luminaries, whether on poles, attached to buildings or otherwise provided, but excluding floodlighting luminaries, shall conform to the following:

a. Such area lighting shall be provided by means of full cutoff type luminaries.

b. Such full cutoff luminaries shall be located or shielded so as to deliver no more than .05 foot candles of illumination at the

property line, which illumination shall be measured in both a horizontal and vertical planes at the property line.

c. No area lighting luminaire shall be located more than 14 feet above the ground.

3. Floodlighting: Floodlighting luminaries shall be used only for illumination of buildings and other structures and architectural and landscape features and shall conform to the following:

a. Floodlighting luminaries shall be shielded, such as by visors, or baffles, to minimize spillage of light beyond the outside edge of the object being illuminated.

b. Floodlighting luminaries shall be aimed at buildings and away from adjacent properties.

c. No floodlighting illumination shall be permitted within 200 feet of a Residential zone.

d. Any floodlighting illumination shall not result in the luminance (brightness) of the illuminated object exceeding five footlamberts.

e. No floodlight luminaire shall be located more than 14 feet above the ground.

f. Floodlight luminaries shall be located or shielded so as to deliver no more than .05 foot candles of illumination at the property line, which illumination shall be measured in both a horizontal and vertical planes at the property line.

D. No lighting shall be constructed, erected, altered or otherwise changed without a permit application filed and approved. All Lighting Permit applications shall be signed by the applicant and owner of the lot on which the lighting will be located.

E. Lighting other than that approved in the design guidelines may be presented via the permit process, subject to all other Sections of this regulation, and shall be accompanied by the following:

1. a sketch drawing to scale of the building façades;
2. a plot plan showing locations, dimensions and types of all existing lights on the premises; and
3. plans and specs for the proposed lights including locations, dimensions, maximum and minimum height, proposed design materials, photos of the proposed lighting fixtures, bulb types, bulb wattage, bulb Color Rendering Index, foot

candle, shielding, filters, directional fixtures, housings, utility connections, transformers, louvers, reflectors, lenses, staking, mirrors, caging, screening and landscaping.

ARTICLE 8

MISCELLANEOUS PROVISIONS

SALE OF LIQUOR-ALCOHOLIC BEVERAGE OUTLETS

8.01 A. The provisions of this section shall not apply to grocery establishments, to stores selling canned or bottled beer only, to drugstores dispensing liquor on a prescription only, or to full-service restaurants whose primary purpose is to prepare and serve meals for consumption on the premises with an alcoholic beverage as an accompaniment to those meals. **[Amended effective December 22, 2014]**

B. No alcoholic beverage outlet shall be located in a store where any door providing customer access to the store is less than 300 feet measured in a straight line from the nearest property line of land occupied by any school or church, provided that no existing premises used as an alcoholic beverage outlet shall be deemed a violation of these regulations through the subsequent erection of a school or church.

LOTS WITH RESTRICTED OR NO STREET FRONTAGE

8.02 A. A lot in any zone existing as of December 14, 1963, having sole access to a street by means of an easement, right of way or strip of land, and a lot having frontage only on a private road or trail shown on a subdivision plan filed in the Newtown Town Clerk's Office which is not valid under the Newtown Land Subdivision Regulations effective October 2, 1967, may be used for uses permitted in the zone and permitted buildings erected, altered or enlarged thereon provided that said easement, right of way, strip of land, private road or trail is at least 12 feet wide and will permit unlimited access for owners of such lot and for all public utilities.

1. Lots other than those having frontage on such a private road or trail may be so used and the permitted buildings erected, altered or enlarged only if the lot has not been owned or controlled by a person or persons owning or controlling any other means of access to a street or a wider easement, right of way or strip of land at any time subsequent to December 14, 1963. If said lot cannot meet the area or minimum square requirements for the zone in which it lies it may still be used provided that it has not been reduced in area at any time subsequent to December 14, 1963, and did not and has not since said date adjoined other improved or unimproved land owned or controlled by the same person owning or controlling said lot.

2. The same requirements set forth in Subsection 1 hereof shall apply to lots having frontage only on such private roads or trails.

3. Said lots shall conform in all other respects to the provisions of these Regulations.

B. In establishing front, side and rear yards for any lot without street frontage permitted in this Section 8.02, the front yard of any such lot may be considered located on that portion of the rear lot nearest to the street to which such lot has access or

adjacent to whichever lot line is closest to a dwelling or other building existing or under construction on an adjacent lot.

C. No building or other structure shall be constructed on any lot without street frontage, except those on private roads or trails, unless each such lot has its own driveway to the street which is constructed with an all weather surface capable of supporting fire apparatus or similar mobile equipment during all seasons of the year.

D. Where property exists in a residential zone (one acre) capable of being divided into more lots than it has street frontage for, said property may be subdivided, pursuant to law, into three or more lots provided that no more than one rear lot shall be created for every two lots with street frontage and the area of the access strip of land may not be included in computing the area of the rear lot.

PONDS AND INCIDENTAL EXCAVATIONS

8.03 A. 1. Excavations of earth materials, but not the removal thereof from the premises, shall be permitted in any zone when clearly incidental to the construction of buildings or structures on the property, or the construction of ponds of 1/4 acre or less in size. The creation or enlargement of such 1/4 acre pond, revision of the channel or a watercourse or any other landscaping excavations carried on by the use of bulldozers, payloaders or similar power driven excavating machinery shall require a Zoning Permit.

2. Ponds in excess of 1/4 acre or the enlargement of any existing pond to a size greater than 1/4 acre shall require a special exception permit to be obtained. Such pond shall be for one of the following purposes only, the criteria and standards for which are as follows **[Amended effective December 22, 2014]**:

a. Fire protection. Such ponds shall provide year around access for fire equipment and have a dry hydrant installed which is designed to meet the requirements of the local fire company. The storage capacity of fire protection ponds will be sufficient to protect specifically designated buildings and woodland areas. Design for fire protection ponds will be required and a copy of such design showing the location, volume and maintenance of such pond placed on file at the local fire company. Minimum depth - 8 feet.

b. Recreation. Must be for private non-profit family use (fishing, boating, swimming, etc.). Minimum depth - 6 feet.

c. Irrigation. Such ponds must be designed for the water requirements of the crops to be irrigated, considering the effective rainfall that can be expected during the growing season, the application efficiency of the irrigation method used, loss due to

evaporation and seepage, and the recharge capacity of the watershed supplying the pond. Minimum depth - 6 feet.

d. Wildlife. Minimum depth of 6 feet for only 1/2 the area of the pond. The remaining area should be a maximum of 3 feet deep. In lieu of a pond, a wildlife marsh may be constructed having a minimum water area of one-half acre and a maximum depth of 3 feet.

e. Livestock watering. Size of pond should be related to the number and kind of livestock to be watered and the expected daily consumption thereof. Minimum depth - 6 feet.

f. Ornamental. Must be accessory to the use of a lot for a permitted principal use. Minimum depth - 6 feet.

3. No pond constructed under a special exception permit shall be a ruse for a mining operation. The maximum depth allowable shall be the least necessary in order to carry out the purpose of the pond. **[Amended effective December 22, 2014]**

4. Applications for a Zoning Permit or a special exception permit, as the case may be, for a pond shall include a map (which may be a United States Geodetic Survey) showing the watershed area and an exact computation of the area thereof, and a computation of the peak flow from said watershed for a 10 year or 25 year flood depending on whether it is a dug or impounded pond. No pond shall cause the total area of all ponds in the watershed area, including the pond to be constructed, to exceed 1/10 of the watershed area. The sides of all ponds shall have a maximum slope of 3 feet horizontal to one foot vertical. The outlet of dug ponds shall be capable of carrying the flow of a 10 year flood and the outlet of a pond created by damming a stream shall be capable of carrying the flow of a 25 year flood. Said computations and applications shall be signed by a registered professional engineer. **[Amended effective December 22, 2014]**

5. The Applicant for a special exception permit need meet only the following criteria for special exceptions and permits: Section 8.04E.1, E.2, E.3, E.4, E.5 and E.6. The powers and procedures set forth in Sections 8.04F, G, H and I shall be followed. If topsoil or other earth material are to be removed from the premises pursuant to said special exception permit then a construction permit as set forth in the Newtown Sand and Gravel Regulations shall be obtained concurrently with said special exception permit. Topsoil may be removed only in accordance with Section 8.03B hereof. In addition to the portions of Section 8.04F which apply the Commission may impose conditions on the construction of a pond under special exception permit to avoid stagnation and insure the continued vitality of the pond. **[Amended effective December 22, 2014]**

B. No topsoil shall be removed from any land in the Borough except incidental to construction of a building or other structure for which a Zoning Permit is required and then only as set forth below:

1. The applicant for such Zoning Permit shall state at the time the permit is sought that he intends to remove the topsoil from the premises.

2. The area of the premises from which the topsoil is to be excavated and an area for the stockpiling of such topsoil during construction shall be shown on the plot plan submitted by the applicant. No topsoil shall be stripped except from the smallest area necessary for the construction of said building or structure and the area of the excavation necessarily incidental thereto. All areas shown shall be related to existing monuments or features on the lot or otherwise with sufficient clarity so that the exact areas to be excavated and used for stockpiling can be determined by the Zoning Enforcement Officer. A Construction Permit for the removal of said topsoil must be obtained as set forth in the Newtown Sand and Gravel Regulations concurrently with the Zoning Permit or the Zoning Permit is void.

3. All topsoil excavated pursuant to the Zoning Permit shall be stockpiled on the area designated therefore on the plot plan during the course of construction and none may be removed prior to the certification provided in Subsection 5 below.

4. When the Zoning Enforcement Officer inspects for the issuance of a Certificate of Zoning Compliance pursuant to Section 9.01C hereof, he shall inspect the premises owned or controlled by the applicant, and determine whether or not any portion thereof, other than rock outcroppings occurring naturally, has been stripped of topsoil either by man or by erosion. If the Zoning Enforcement Officer determines that portions of the applicant's premises have been so stripped, he shall refuse to issue a Certificate of Zoning Compliance until such time as the stockpiled topsoil has been spread over the stripped area to a depth of at least 6 inches.

5. When the Zoning Enforcement Officer, on the first or any subsequent inspection, determines that no area of the applicant's premises requires a covering of topsoil as aforesaid, then he shall clarify that the remaining stockpile of topsoil is surplus and may be removed by the applicant. A Certificate of Zoning Compliance shall not be issued until satisfactory removal or spreading of said stockpile has occurred, and after the issuance of such a certificate, no further removal of topsoil from the premises shall occur.

C. No earth materials (other than topsoil the removal of which is governed by Subsection B hereof) in excess of 100 cubic yards per year may be removed from any land in the Borough of Newtown except where clearly incidental to construction of a building or other structure for which a Zoning Permit is required, and then only as set forth below:

1. An amount equal to the volume of that portion of any building or other structure constructed below grade level plus 100 cubic yards may be removed without submission for the detailed plans and the making of the finding required by Subsections 2 and 3 below.

2. An amount in excess of the amount provided in Subsection 1 above may be removed only if such removal is shown as part of the site development work on the application for the Zoning Permit. Where such removal is shown the applicant shall submit a topographical map showing existing contours and finished contours at intervals of 2 feet for grades less than 3 percent and 5 feet for grades of 3 percent and up, together with an exact computation of the quantity to be removed and an outline of the area to be excavated and the location where topsoil will be stockpiled during construction.

3. Before issuing a Zoning Permit permitting excavation and removal in excess of the amount specified in Subsection 1 above the Zoning Enforcement Officer must find in writing that the proposed excavation is clearly incidental to the construction of the building or structure for which the permit is sought. In determining whether or not such excavation is clearly incidental the Zoning Enforcement Officer should consider factors such as the feasibility of constructing the building or other structure at the existing contours, the percent of lot area to be excavated, the relative value of the material to be removed and the cost of the proposed building or structure, whether or not the difficulty of construction at existing contours was the result or prior acts of the applicant or his predecessors in interest, the primary nature of the applicant's business and any additional relevant factors affecting the lot in question. A Construction Permit for the removal of said earth material must be obtained as set forth in the Newtown Sand and Gravel Regulations concurrently with the Zoning Permit for the Zoning Permit is void.

4. All topsoil stripped from the excavation area shall be stockpiled on the area designated therefore on the map submitted and all of it shall be respread on the excavated area prior to issuance of a Certificate of Zoning Compliance unless its removal was specifically permitted and is carried out in accordance with Subsection B above.

8.04 SPECIAL EXCEPTIONS OR PERMITS

The following regulations govern the granting of any special exception permit by the Commission.

A. The Board shall require an application on a form which it prescribes which shall be submitted to the Commission at least 15 days prior to its regular monthly meeting. Said application shall contain a written statement of the proposed use, appropriate information concerning the applicant and his interest in the property for which the special exception is being sought, and the names and addresses of owners of

property which may be affected by the granting of the special exception and in any event, the owners of property lying within 1,000 feet of the boundaries of the parcel for which the special exception is being sought.

B. In addition four copies of a site plan shall be submitted with the application. Said plan shall be drawn to a scale of not less than 40 feet to the inch and shall meet the A-2 classification of the Connecticut Technical Council. Said plan shall show the following information, which may be submitted in several documents or maps provided that each document or map is submitted in quadruplicate:

1. The perimeter of the lot and an outline of those areas of the lot to be devoted to the use for which the special exception is being sought with the areas of each computed.

2. Existing contours at not more than 5 foot intervals.

3. Proposed contours at not more than 5 foot intervals.

4. Location of all existing buildings, wells, sewage disposal facilities, utility installations, drainage facilities, ponds, swamps, watercourses, rock outcroppings and existing wooded areas on the site for which the special exceptions are being sought, location of all proposed structures, signs, loading areas, parking areas including stalls and curbing, all planting, landscaping and buffer areas, proposed water supply and sewage disposal systems, all storm drainage structures and facilities, and all gas, electric and other utility installations. Gross floor area of all buildings to remain or to be built on the lot shall be shown.

C. Four (4) copies of a general location map showing the surrounding property within 500 feet of the area proposed for a special exception, including all existing structures, wells, sewage disposal facilities, roads, storm drainage systems, ponds, swamps, watercourses, rock outcroppings, wooded areas, names of contiguous property owners and contours at not less than 10 foot intervals. This map need not be drawn to scale, provided that the scale is not varied in any way which misleads the viewer, and all the required information is shown.

D. Architectural rendering of all proposed buildings, structures or signs, together with a description of the nature of the exterior surfaces and all exterior features such as, but not limited to, doors, windows, fire escapes, signs and lighting.

E. The following standards and criteria shall be met by all uses which are permitted only by special exception or permit, in addition to those standards and criteria which are otherwise set forth in these Regulations. No special exception shall be granted by the Zoning Commission unless it finds that all these standards have been or will be met. Approval without such findings shall be null and void and the Zoning Enforcement Officer shall not issue a Zoning Permit or Certificate of Zoning Compliance in such a case.

1. The proposed use shall be in harmony with the general character of the neighborhood.

2. The proposed use shall not be inconsistent with the intent and purpose of these regulations.

3. The proposed use shall not substantially impair property values in the neighborhood.

4. The proposed use shall not create a traffic hazard on existing streets.

5. The proposed use shall not create a health hazard to persons on or off the lot on which the use is proposed.

6. All applicable sections of these Regulations and all other applicable Town and State laws, ordinances, regulations or codes, including without limitation, the Town Sanitary Code, Town Sand and Gravel Regulations and State Health Code, shall be complied with. It shall be the duty of the applicant to list on his application the various sections of the Town and State laws, ordinances, regulations and codes which govern his proposed use and buildings.

7. The architectural design of the proposed building shall be in harmony with the design of other buildings on the lot and within 1,000 feet of the perimeter of the lot for which the special exception is sought.

8. Construction proposed on the site shall be carried out so as to utilize the site in a manner which results in the least defacement of the natural features thereon, such as trees, rock outcroppings, etc.

9. The lot shall contain the minimum area required for the special exception use.

F. 1. In granting any special exception the Commission may impose conditions on the buildings and structures proposed to be built and on the use of the property, including without limitation, increasing the minimum yard, parking and landscape requirements otherwise applicable, as are necessary to preserve the general character of the neighborhood, to protect the public health, safety and convenience of the persons and properties affected by said special exception, to stabilize and improve property values in the neighborhood, and to meet the standards set forth in Subsection E hereof. Such conditions may include requirements for the posting of a bond in a sufficient amount, in the commission's judgment, to ensure the completion of the infrastructure components of the approved plan and such parts thereof as would advance the public's safety and convenience and the public purposes of zoning and/or

the proper maintenance of such elements for a period of up to three years after the issuance of a certificate of occupancy. **[Amended effective April 22, 2019]**

2. When any special exception granted by the Commission is utilized, the use, buildings and other structures shall comply in all respects with the application, site plan and architectural plan as finally approved, as well as the conditions imposed by the Commission under this said Section.

3. The applicant shall notify the Commission of any proposed change to the special exception and shall obtain the approval of the Commission of any change to such approval prior to the implementation thereof. The Commission may approve non-substantial modifications of a previously approved Special Exception without a public hearing and without special notices otherwise required. Prior to the issuance of any Certificate of Occupancy, the applicant shall submit to the Commission a certification by each of the applicant's engineers and architects that there are no variances or deviations from the approved special exception. The certification required by this section shall be deemed to be of the essence of a Certificate of Occupancy issued in reliance thereon.

G. The Commission shall hold a public hearing on each application for a special exception, the date, time, place and purpose of which shall be warned in the same manner as an amendment to these Regulations. The applicant shall be required to pay an application fee pursuant to Section 9.07.

H. If the owners of 20 percent or more in area of all land (other than streets) lying outside of but within 500 feet of each boundary line of the property proposed for a special exception objected to the proposed special exception in writing prior to Commission action, then the Commission may grant said special exception only upon the affirmative vote of at least 4 members of the Commission (including alternates designated to sit for absent members).

I. Any special exception granted by the Zoning Commission shall cease to be effective two (2) years after the date of approval.

J. Any party aggrieved by the decision of the Zoning Commission on any application for a special exception may appeal said decision of the Board of Appeals within 15 days of the effective date of said decision.

8.05 NONCONFORMING BUILDINGS AND USES

A. Any building, structure or use of land, either principal or accessory, lawfully existing at the time of adoption of these Regulations, or any amendments thereto, may be continued although such building, structure or use does not conform with the provisions of these Regulations.

B. Once a nonconforming use has been abandoned, neither it nor any other nonconforming use shall thereafter be reestablished. The discontinuance of a nonconforming use and the replacement thereof by a conforming use, for any period of time, no matter how short, shall constitute abandonment of the nonconforming use. Such replacement by a conforming use shall occur when that portion of the lot or building formerly devoted to a nonconforming use is issued for a conforming use. When a nonconforming use has not been actively conducted for a period of one year for whatever reason except the reconstruction of a building or structure in which it was conducted because of casualty loss, then it shall be presumed abandoned and a Zoning Permit will be necessary before any use is made of said premises. If the owner of said premises desires to resume said presumptively abandoned nonconforming use, he may apply to the Zoning Board of Appeals which shall conduct a hearing and determine whether or not said nonconforming use was abandoned. The burden of proof shall be upon the applicant to show that the use was not in fact abandoned.

C. No lot on which a nonconforming use has been conducted shall be used for any other use which does not conform to the requirement of these Regulations whether or not such new use would be more or less detrimental to the neighborhood than the nonconforming use already existing.

D. When a building in which a nonconforming use is conducted, or which is itself nonconforming as to size, coverage, or location on the lot, is damaged or destroyed by fire, explosion, act of God or catastrophe not brought about by or on behalf of the owner, lessee or other person in possession and control of said nonconforming building, it may be restored or reconstructed and used for said nonconforming use provided that: 1. the restored or reconstructed building covers no greater area, has no greater cubic content, and is at least as conforming as to location on the lot as was the building damaged or destroyed and 2. in case of destruction of the building, a Class A-2 survey is filed with the Clerk of the Borough of Newtown, depicting its location on the lot, such survey to be filed at or before the time an application to demolish the building is filed.

The foregoing notwithstanding, any such nonconformity shall be lost unless restoration or reconstruction, as the case may be, is substantially started within the later of two (2) years from the date public sewers are available according to the plan adopted by the WPCA as of the effective date of this revision or one (1) year from the original damage or destruction or unless the building is demolished and a Class A-2 survey is filed with the Clerk of the Borough as stated above.

E. No nonconforming use may be extended to any property not owned by the owner of the nonconforming use on the date on which it became nonconforming by virtue of these Regulations. No building in which a nonconforming use is conducted may be enlarged either in area or cubic content. Such a building may be otherwise altered, improved or rebuilt.

F. Any building in which a conforming use is conducted and which has been made nonconforming as to front, side or rear yard dimensions, height or minimum size

of dwelling by virtue of these Regulations or the amendments thereto may be enlarged, altered or maintained notwithstanding any such nonconformity, provided that the enlargement or alteration of said building shall not increase the degree of such nonconformity, that said building shall comply with all other provisions of these Regulations for the zone in which it lies, and that the lot on which it is located has not, at any time after said building became nonconforming, been reduced in size so as to increase such nonconformity.

G. Nonconformity of any improved or unimproved lot with the provisions of these Regulations concerning minimum lot area, minimum width at the front line or minimum square shall not prevent the erection, enlargement, alteration or maintenance on such lot of a building or buildings which, as so erected, enlarged, altered or maintained shall comply with all of the other provisions of these Regulations for the zone in which it lies, if such lot was in existence on December 14, 1963, and if it was not at any time thereafter reduced in area and did not adjoin another improved or unimproved lot or lots owned or controlled by the person or persons owning or controlling the lot in question on said date or at any time thereafter.

H. Nonconformity of any lot as to minimum lot area, minimum width at the front lot line, minimum square, or ratio of rear to front lots, in a subdivision approved by the Commission (or the Newtown Planning Commission) prior to (effective date) shall not prevent the construction of a building thereon by a person who is not required to seek reapproval of said subdivision pursuant to 2.17 of the Newtown Land Subdivision Regulations.

Access to any industrial zone may be had through any Business or any other Industrial Zone, but the area of the lot through which access is obtained shall not be included in computing minimum lot area or frontage. Access to Business and Industrial Zones is not allowed through Residential or Professional Zones except by special exception.

ARTICLE 9

ADMINISTRATION

9.01 ZONING ENFORCEMENT OFFICER

A. The Commission shall designate one or more Zoning Enforcement Officers one of whom shall serve as the Chief Officer and all other Zoning Enforcement Officers shall serve under his direction. Said Zoning Enforcement Officer shall administer and enforce these Regulations and shall implement and enforce the decisions of the Zoning Board of Appeals. Said Zoning Officers shall issue Zoning Permits as hereinafter set forth, make the inspections required in the administration and enforcement of these Regulations and the decisions of the Zoning Board of Appeals, issue or deny Certificates of Zoning Compliance as set forth herein, issue orders to cease and desist from the violations of these Regulations and are hereby authorized to inspect any lot, premises, building or use, whether public or private, where said Zoning Enforcement Officers have reason to believe it is or is about to be in violation of these Regulations. Said Zoning Enforcement Officers shall institute civil actions in accordance with the General Statutes to prevent or abate violations of these Regulations and, if authorized, shall arrest, or they may seek warrants for the arrest and conviction of any owner, lessee or agent of such owner or lessee, of any building, premises or part thereof in which a violation of these Regulations has been committed or is being committed or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation. In addition, said Zoning Enforcement Officers shall issue orders to discontinue such violations and, if violations are not discontinued within 10 days of such order, shall institute civil actions to recover the civil penalties provided by Statute. Where reference is made in these Regulations to "Zoning Enforcement Officer" in the singular shall be deemed to be a reference to any and all Zoning Enforcement Officers who have been appointed hereunder.

9.01 B. ZONING PERMITS

1. Before any land, building or other structure is devoted to a new or changed use, whether or not the owner believes such new or changed use is conforming to these Regulations, or before the erection, enlargement or structural alteration of any structure is commenced, a Zoning Permit shall be obtained from a Zoning Enforcement Officer. The application for such zoning permit shall be accompanied by a plot plan and the Zoning Enforcement Officer may request from the applicant in writing sufficient information so that the Zoning Enforcement Officer may determine that the proposed building, structure or use complies with the provisions of these Regulations in all respects or Site Development Plan approval may be obtained in accordance with Article 10 hereof, if so required.

Except for single family uses, no change in occupancy, use or mix within any building shall be made without prior review and approval by the Borough Sanitarian and Zoning Enforcement Officer.

2. No Zoning Permit shall be issued until the permits required by the Newtown Sanitary Code as to wells and sewage disposal systems, and the driveway permit required by the Town Road Ordinance have been obtained by the applicant, if applicable to the use, building or structure proposed. No such Zoning Permit shall be issued unless the Zoning Enforcement Officer has certified in writing that the proposed building or use complies with all the provisions of these Regulations and all conditions which have been imposed by the Commission or Board of Appeals, where applicable. No building or permit should be issued until the Zoning Permit has been issued.

3. Upon completion of the foundation of any building or structure for which the Zoning or Building permits have been issued, and before proceeding any further with the construction of said building or structure, a certified survey by a licensed professional engineer or land surveyor meeting the requirements of the A-2 class survey of the Connecticut Technical Council shall be filed by the holder of the Building and Zoning Permits with the Zoning Enforcement Officer. Such survey shall show such foundation and any existing or proposed well, septic tank and fields and indicate the distances therefrom to the street line, the side and rear lot lines of the lot on which the building or structure is situated and the distances to the well and septic tank and fields.

4. Any Zoning Permit issued hereunder shall cease to be effective 6 months after the date of issuance (or after the date on which it is finally determined to be valid if challenged by appeal to the Zoning Board of Appeals or the courts) unless the use for which the permit is sought is being actively conducted on the lot or unless work has been commenced and is being diligently pursued on the building or other structure for which the Zoning Permit was sought.

5. Applications for Zoning Permits shall be accompanied by a fee to be computed as follows:

- a. For alterations only, resulting in no increase of space, and for new or changed uses of land, building or structures not involving alterations or additions – no fee.
- b. For all other applications, see Section 9.07.

9.01 C. CERTIFICATE OF ZONING COMPLIANCE

No lot or building shall be occupied or used in whole or in part for any purpose until a Certificate of Zoning Compliance shall have been issued by the Zoning Enforcement Officer stating that the lot, building or structure complies with all the provisions of these Regulations. The building or the structure is complete and ready for occupancy or use, the applicant shall notify the Zoning Enforcement Officer who shall, within 30 days from the receipt of such notice, inspect the lot, building or structure and

issue a Certificate of Zoning Compliance of such lot, building or structure comply with all of the provisions of these Regulations, and any special conditions imposed by the Commission or the Zoning Board of Appeals. Prior to issuing a Certificate of Zoning Compliance the Zoning Enforcement Officer may require further written statements from the owner, his agent or any person who is to occupy the premises concerning any information he deems necessary in order to determine whether or not the provisions of these Regulations are being and will be met. Where a portion of a building or structure is ready for occupancy or use the Zoning Enforcement Officer may issue a Certificate of Zoning Compliance as to that part only and no other portion of said building or structure may be used or occupied until a subsequent Certificate(s) of Zoning Compliance is/are obtained therefore.

9.02 RELATIONSHIP TO OTHER REGULATIONS

The violation by any person seeking a Zoning Permit or Certificate of Zoning Compliance of the provisions of the Newtown Sanitary Code, the Newtown Road Ordinance, the Land Subdivision Regulations, the Newtown Sand and Gravel Regulations or any other regulations within the “police power,” so-called, subsequently adopted by the Town of Newtown acting through its legislative body or its boards or commissions, shall constitute a violation of these Regulations and, while said violation is continuing, shall be sufficient cause to refuse to issue or revoke said Zoning Permit or to refuse to issue said Certificate of Zoning Compliance.

9.03 ZONING BOARD OF APPEALS

The Zoning Board of Appeals of the Borough shall have the powers of the State of Connecticut and these Regulations. In exercising its power to vary these Regulations it may do so in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical conditions as a result of which strict application would result in exceptional difficulty or unusual hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provisions of these Regulations shall be granted by the Board of Appeals unless it finds:

A. That there are special circumstances or conditions fully described in the findings of the Board, applying to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or building, and do not apply generally to land or buildings in the neighborhood, and have not resulted from any act subsequent to the adoption of these Regulations, whether in violation of the provisions hereof or not.

B. That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or building

and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

C. That the granting of the variance will be in harmony with the purposes and intent of these Regulations, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

9.04 AMENDMENTS

A. These Regulations may be amended, added to or repealed and the boundaries of the zones shown on the Zoning Map may be established, altered or eliminated in accordance with the procedures established by the General Statutes either on the initiative of the Commission or upon receipt of a written application for such a change.

B. Any application for an amendment, change, addition or repeal of these Regulations or the establishment, alteration or elimination of the boundaries on the Zoning Map shall be filed first with the Zoning Enforcement Officer at least 15 days prior to the regular monthly meeting of the Commission. Said application shall be accompanied by a fee in accordance with Section 9.07. The cost of publication shall be borne by the Applicant.

C. Any such application shall make specific reference amendment or change to the portion of these Regulations to be amended, changed, added to or repealed and shall contain the text of the proposed amendment or change.

D. Any application to establish, alter or eliminate a zoning boundary or zone set forth on the Zoning Map shall be accompanied by a Class A-2 or B-100 map by a registered land surveyor drawn to scale showing the exact area for which such change is being sought and delineating any proposed new zoning boundaries with reference to existing monuments, natural features or otherwise so that all persons affected can know the area for which the change is sought. Such an application shall include the name of all property owners within the area for which the change is sought and within the number of feet of the perimeter thereof established by the General Statutes, presently 500 feet, within which area a protest may be filed according to such statute. Said application shall also contain a sufficient description of the property which may be used by the Commission in publishing the notice of hearing on said change.

9.05 SEPARABILITY

If any Section, Subsection, clause, phrase, or any provision of these Regulations is, for any reason, finally adjudicated to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and

independent provision, and such adjudication shall not affect the validity of the remaining portion hereof.

9.06 PENALTIES

The procedure and penalties for violations of these Regulations shall be as set forth in Section 8-12 of the General Statutes, as from time to time amended.

9.07 FEES (to provide additional fees to cover the cost of outside consultants where necessary)

The following fees shall be submitted with, and as a part of, applications and petitions for:

Please note that the commission may determine that it is reasonably necessary to engage the services of an outside consultant or consultants to assist it with evaluating any application submitted pursuant to these regulations or in inspecting or verifying improvements made or being made pursuant thereto. In that event, the fees and costs incurred by the commission with respect thereto shall be assessed as additional fees in relation to any such application. Such additional fees shall be paid regardless of the outcome of the application and, in any event, prior to and as a condition of the issuance of any certificate of approval or permit issued in consequence of said application.

<u>Zoning</u>	
Amendments	\$300.00
Change of Zone	\$300.00
Site Development Plans	\$150.00
Special Exceptions/Special Permits (cost of transcript extra, if required)	\$300.00
<u>Temporary Retail Sales</u>	
Fee	\$200.00
Security Deposit	\$500.00
<u>Roadside Stands</u>	
Fee	\$25.00
Security Deposit	\$50.00
<u>Tag Sales, Auction Sales</u>	
Fee	\$10.00
Security Deposit	\$25.00
<u>Circus, Carnival (Entertainment)</u>	
Fee	\$25.00

Security Deposit	\$50.00
<u>Zoning Permits (see Section 9.01.B.5.)</u>	\$12 per 100 sq. ft.
<u>Sand and Gravel</u>	
Construction Permits	\$100.00
Mining Permits	\$500.00
<u>Village District</u>	
Basic Fee	\$150.00
Plus Cost of Architectural Review	
<u>Zoning Regulations</u>	
Hard copy book	\$40.00
(plus \$5.00 postage if required)	
Electronic version	\$25.00
<u>Zoning Map</u>	\$15.00
(plus \$3.50 postage if required)	
<u>Special Meetings</u>	\$150.00
For any special meeting requested by Applicant or Petitioner, and any special meeting required regarding any application or petition (plus cost of publication, if required)	
For any application not listed above that requires a hearing	\$100.00

ARTICLE 10

SITE DEVELOPMENT PLANS

10.00 A. Purpose -- The Site Development Plan approval process is hereby established by the Zoning Commission in an effort to aid in the upgrading of future development of the Borough of Newtown; in an effort to encourage the appropriate development in the use of land and buildings; and in an effort to diminish detrimental effects on neighborhood characteristics and property values.

B. Site Development Plan approval is required for any development involving the erection of any new structure greater than 1500 square feet in area and/or the reconstruction, enlargement, extension or structural alterations of existing structures which would result in an increase in the gross floor area of greater than 1500 square feet. Excepted from this requirement are the lawful construction, alteration and occupancy of single family dwellings and uses accessory thereto.

C. The Commission shall require an application on a form which it prescribes. Said application shall contain a written statement of the proposed use, appropriate information concerning the applicant and his interests in the property for which Site Development Plan approval is being sought.

D. In addition, the following information shown either on a Site Development Plan, supplemental plans drawn to a scale of not less than 1" = 40' (except where otherwise specified), said plan not to exceed 25" x 37", reports or documents:

1. Name and address of owner and of developer, if different.
2. Scale, north arrow, date, and zone classification.
3. Signature and seal of a professional engineer, and/or surveyor, and/or architect, where applicable, licensed to practice in Connecticut.
4. Names of all abutting property owners. All zone or municipal boundaries within 1,000 feet of the property.
5. Perimeter of property involved together with total property area.
6. A map showing the proposed area of construction at a scale of not less than 1" = 20'.
7. All proposed improvements to the property, including paved parking areas, walks, landscaping, building setback dimensions, wells or water supply, septic systems (including 100 percent reserve area), drainage with invert elevations at basins, and pipe size, utilities, signs, (size, type and location), outdoor lighting, erosion control and curbing (with all radii shown).
8. The location of each proposed septic system, detailed design computations for septic systems including type of sewage, equipment data sources and layout of system and the location and results of each deep test hole and percolation test and/or approval from WPCA.

9. Preliminary building plans including schematic floor plans, exterior elevations and perspective drawings.

10. Existing and proposed contours at intervals not to exceed 5 feet, smaller intervals may be necessary to show characteristics of that terrain. Proposed spot elevations at strategic locations.

11. The volume of earth to be removed from the site or to be filled into the site.

12. All existing topographical features on and within 50 feet of the property, structures, paved areas, foliage limits, wetlands, watercourses, underground utilities, septic systems, wells, isolated trees, stone walls, driveways, paths, ledge outcroppings or boulders, easements and building setback lines.

13. Proposed open space such as parks, lawn areas and recreation facilities and such proposed covenants, easements and other provisions relating to dimensions, location and density of such buildings and public facilities as are necessary for the welfare and maintenance of the development and are not inconsistent with the best interests of the Borough.

14. The percentage of building coverage and lot coverage. **[Amended April 22, 2019]**

15. Location and dimensions of loading, storage, refuse collection, exterior machinery and equipment, and parking areas including the location, dimensions and number of vehicle spaces and traffic islands.

16. Proposed vehicular and pedestrian circulation patterns including location and dimensions of private and public streets and common drives.

17. Field measurements of sight distances in both directions from each access to Town and State Roads.

18. A traffic survey of the area or any other information which the Commission may reasonably require or the applicant may wish to submit.

19. If filed with a Village District application, a block face drawing in accordance 12.F.5 Streetscapes. **[Amended April 22, 2019]**

E. In addition, the Commission shall receive the following: **[Amended April 22, 2019]**

1. A statement from the Fire Marshall on firefighting feasibility of the proposed development, recommendations and/or approval.

2. An inland/wetlands license from the Conservation Commission, if required.

3. A statement from the Borough Engineer detailing recommendations and/or approval.

4. Approvals from the Water/Sewer Authority and Aquarion if required by the Commission and are normally obtained as a stipulation detailed in the Commission's approval of the application.

5. A statement from the Police Department detailing recommendations and/or approval.

6. A statement from the Conservation Director detailing comments, recommendations and/or approval.

7. A statement from the Health Department on the water and wastewater disposal needs of the development, recommendations and/or approval.

8. A statement from the Planning Commission that the application is in accordance with the Town of Newtown Plan of Conservation and Development.

9. A report from the Village District's consultant per 12.05A if required.

F. No Site Development Plan shall be approved by the Commission unless it finds that the following standards and criteria have been or will be met:

1. The architectural design and renderings of buildings, including among other elements, the building material, roofline and building elevations, shall be of such character as to harmonize with the neighborhood, and to protect property values in the neighborhood.

2. All details of the Site Development Plan are designed and arranged so as not to create a health or safety hazard to persons or property on or off the road on which the development is planned.

3. All details of the Site Development Plan are planned to conserve as much of the natural terrain and vegetation as possible.

4. All details of the Site Development Plan are planned to minimize excessive light and noise.

5. All details of the Site Development Plan are in keeping with the general intent and spirit of the Borough Zoning Regulations.

6. Utilities and drainage have been so laid out so as not to unduly burden the capacity of such facilities.

7. The streets and drives will be suitable and adequate to carry anticipated traffic within the site.

8. All applicable sections of these Regulations and all other applicable Borough, Town or State Laws, ordinances, regulations, or codes shall be complied with.

G. The Commission may at its discretion hold a public hearing on any proposed development requiring a Site Development Plan. Said public hearing shall be heard within 65 days of the submission of a complete Site Development Plan.

H. Notice of such public hearing shall be warned in the same manner as an amendment to these Regulations.

I. Non-substantial changes in an approved Site Development Plan may, with the written approval of the Zoning Enforcement Officer, be made, provided such changes shall in no way affect the overall layout, design, density, impact or nature of the Site Development Plan. Such non-substantial changes may include, but are not limited to, the locations of catch basins, manholes and other technical aspects of drainage, slight alterations of the location of roads, structures or buildings due to unforeseen topographical or geological features, slight alterations of finished contours, minor rearranging of lighting standards. If the Zoning Enforcement Officer shall have any question as to whether such a proposed change is non-substantial, such change shall require the review and written approval of the Commission.

J. The applicant shall notify the Commission of any proposed change to the approved site plan and shall obtain the approval of the Commission of any change to such approval prior to implementation thereof. Prior to the issuance of any Certificate of Occupancy, the applicant shall submit to the Commission a certification by each of the applicant's engineers and architects that there are no variances or deviations from the approved site development plan. The certification required by this section shall be deemed to be of the essence of a Certificate of Occupancy issued in reliance thereon.

K. Any site plan approval granted by the Zoning Commission shall cease to be effective two (2) years after the date of issuance.

ARTICLE 11

EROSION AND SEDIMENT CONTROL

These Regulations may be cited as “Erosion and Sediment Control Regulations of the Borough of Newtown, Connecticut,” and are adopted for the purpose of conforming with and adhering to the requirements and public policy as set forth in Public Act 83-388.

11.01 DEFINITIONS

A. “Certification” means a signed, written approval by the Commission, that a soil erosion and sediment control plan complies with the applicable requirements of these Regulations.

B. “Commission” means the Borough Zoning Commission.

C. “Conservation Director” means the Conservation Official of the Borough of Newtown.

D. “County Soil and Water Conservation District” means the Fairfield County Soil and Water Conservation District established under Subsection 2 of Section 22a-315 of the General Statutes.

E. “Development” means any construction or grading activities to improved or unimproved real estate.

F. “Disturbed area” means any area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

G. “Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice, gravity machinery or manmade activity, etc.

H. “Grading” means any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

I. “Inspection” means the periodic review of sediment and erosion control measures shown on the certified plan.

J. “Sediment” means solid material, either mineral or organic, that is in suspension, is transported, or has moved from its site of origin by erosion.

K. “Soil” means any unconsolidated mineral or organic material of any origin.

L. “Soil Erosion and Sediment Control Plan” means a scheme that minimizes soil erosion and sedimentation resulting from development and including, but not limited to, a map and narrative.

11.02 ACTIVITIES REQUIRING A CERTIFIED EROSION AND SEDIMENT CONTROL PLAN

A soil erosion and sediment control plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than 1/2 acre.

11.03 EXEMPTIONS

A single family dwelling that is not part of a subdivision of land shall be exempt from these Regulations.

11.04 EROSION AND SEDIMENT CONTROL PLAN

A. To be eligible for certification, a soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods, practices necessary for certification are found in the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. Alternative principles, methods and practices may be used with prior approval of the Commission or the Conservation Director, its designated agent.

B. Said plan shall contain, but not be limited to:

1. A narrative describing:
 - a. the development.
 - b. the schedule for grading and construction activities including:
 - i. start and completion dates.
 - ii. sequence of grading and construction activities.
 - iii. sequence for installation and/or application of soil erosion and sediment control measures.
 - iv. sequence for final stabilization of the project site.
 - c. the design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
 - d. the construction details for proposed soil erosion and sediment control measures and storm water management facilities.
 - e. the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.
 - f. the operation and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.
2. A site plan map at a sufficient scale to show:
 - a. the location of the proposed development and adjacent properties.
 - b. the existing and proposed topography including soil types, wetlands, watercourses and water bodies.
 - c. the existing structures on the project site, if any.
 - d. the proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.

- e. the locations of and design details for all proposed soil erosion and sediment control measures and storm water management facilities.
- f. the sequence of grading and construction activities.
- g. the sequence for installation and/or application of soil erosion and sediment control measures.
- h. the sequence for final stabilization of the development site.

11.05 MINIMUM ACCEPTABLE STANDARDS

A. Plans for soil erosion and sediment control shall be developed in accordance with these Regulations using the principles as outlined in the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. Soil erosion and sediment control plans shall result in a development that: minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed, and does not cause off-site erosion and/or sedimentation.

B. The minimum standards for individual measures are those in the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended. The Commission may grant exceptions when specifically requested by the applicant if technically sound reasons are presented.

C. The appropriate method from the Connecticut Guidelines for Soil Erosion and Sediment Control, as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Commission.

11.06 ISSUANCE OR DENIAL OF CERTIFICATION

A. The Commission shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of these Regulations or deny certification when the development proposal does not comply with these Regulations.

B. Nothing in these Regulations shall be construed as extending the time limits for approval of any application under Chapters 124, 124A or 126 of the General Statutes.

C. Prior to certification, any plan submitted to the Commission shall be reviewed by the Conservation Director who shall make recommendations concerning such plan, provided such review shall be completed within 30 days of the receipt of such plan.

D. The Commission may forward a copy of the development proposal to the Northwest Conservation District, to the Newtown Inland Wetlands Commission, and any

other Town of Newtown Department, commission or agency, or any consultant for review and/or comment. **[Amended effective December 21, 2015]**

11.07 CONDITIONS RELATING TO SOIL EROSION AND SEDIMENT CONTROL

A. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, that are a condition of certification of any modified site plan, if such a modified site plan is submitted for review by the Commission, may be required to be covered in a performance bond or other assurance acceptable to the Commission in accordance with the provisions specified in the appropriate sections of the Zoning Regulations of the Borough of Newtown and the Subdivision Regulations of the Town of Newtown, as from time to time amended.

B. Site development shall not begin unless the soil erosion and sediment control plan is certified and those control measures and facilities in the plan schedule for installation prior to site development are installed and functional.

C. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the certified plan.

D. All control measures and facilities shall be maintained in effective condition until the sign-off of the Certificate of Occupancy, or the designated date reflected in the Site Stabilization Agreement to ensure the compliance of the certified plan. **[Amended effective December 21, 2015]**

11.08 INSPECTION

Inspection shall be made by the Commission or the Conservation Director, its designated agent, during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Commission may require the permittee to verify through progress report that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained. It shall be the responsibility of the permittee to provide proper notification for inspection of control measures and facilities that are required prior to proceeding with any development work which is affected by the installation of these measures. Failure to provide this notification shall nullify any approvals given by the Commission on the project site.

11.09 Site Stabilization Agreement **[added effective December 21, 2015]**

A Site Stabilization Agreement between the applicant and the Borough of Newtown shall be a requirement for a Certificate of Occupancy sign-off during the non-growing months of the year.

ARTICLE 12

BOROUGH OF NEWTOWN VILLAGE DISTRICT

INTRODUCTION

In 1998, the Zoning Commission of the Borough of Newtown began a project to establish a Village District in accordance with the authority provided by §8-2j of the General Statutes and to incorporate in the district a set of design guidelines that would protect the distinctive character, landscape and historic values set forth in the Plan of Development. The members of the committee considered State, regional and municipal policies and past decisions and studied similar documents from regulatory commissions of village districts in other jurisdictions, as well as the federal standards for rehabilitation of properties.

Village District development is controlled by zoning regulations that are to be interpreted with the help of such Village District Design Guidelines as may be adopted by the Commission from time to time. Guidelines have a role that is different in nature from the zoning regulations. Guidelines do not always dictate specific limits, nor does strict adherence to them necessarily assure approval. Evaluation of buildings requires judgment in studying plans submitted. The Commission has to consider each design on its own merit, as well as its effect on the neighborhood and the Borough as a whole. By themselves, guidelines do not guarantee excellent or even mediocre architecture. The important point is that by following these guidelines, the property owner is doing his part to help the Commission protect the fragile, irreplaceable environment of the Borough.

The guidelines are not designed to promote any particular architectural styles. Their role is to protect existing properties against incorrect alterations and, as new buildings are built and additions made to existing structures, to preserve the continuity and architectural unity of the district. Within that overall unity today are a variety of styles and settings, and, as a result, different new buildings could be compatible. Some buildings, however, may not be. For that reason, the intent of the guidelines is to be selective-and sometimes restrictive-in order to exclude designs that would erode the historic, cultural and economic resource built up over generations.

Historic Continuity

The historic value of the commercial center of the Borough is found in the design of its individual buildings, the street scene, and the overall relationship of buildings, streets and topography as well as vehicular and pedestrian traffic and densities of uses. The architecture and the street scene are a reflection of a society, economy, and technology somewhat different from today's. The Borough's commercial center evolved in a simpler society and before the widespread availability of electricity, large machinery, easy transportation, low cost steel and glass, and elevators. The general appearance of street vistas and the present character of separate buildings represent an accumulation of many periods. The overall pattern of streets, lots, buildings, and

landmarks was established in the 18th century and followed in the 19th and 20th centuries. Today, caution and vigilance remain essential to the continued preservation of the Borough through regulation of the commercial center.

Distinctive Character

Anything as subtle as charm is difficult to define, and the quaint and distinctive character of the center defies exact definition as well. Its history and that of the Town as a whole inform it. The component parts of the Borough interrelate in a subtle and distinctive way: the repetition and similarity of house after house with similar or special architectural details and seldom of greater height than three stories; a mix of small and grand houses on small lots facing adjacent streets; a variety of small business and professional offices. These elements have produced the ambience of the Borough for leisurely living and have given it quaint and distinctive New England small town charm that is found with decreasing frequency.

Overall Unity

Courts have not attempted to define these special qualities but rather have looked more toward a total concept or overall unity, as the definitive statement. The wording of the "Village District" statute, general rather than categorical, seems to take into account that, within the overall entity of a Village District, there is a spread of historic styles, cultural influence, land use and density. However general this phraseology, its thrust and intention are unmistakable.

Design Quality

While the quality of a building's design may not improve with age, every generation must evaluate the significance of architectural styles and examples, being guided by the wisdom of the past and wary of its folly. Some buildings that are interesting and intriguing now, for instance, were previously considered to have very little value.

MAJOR COMPONENTS OF THE VILLAGE DISTRICT DISTINCTIVENESS

A. While a statement in the Introduction suggests that defining the "quaint and distinctive character" of the Borough and its commercial center is difficult, the major physical components of its distinctiveness are not mysterious or elusive. The Commission, in attempting to fulfill its legal responsibility to preserve its rural New England village character, recognizes that size, scale and design of buildings, along with workable pedestrian and vehicular traffic patterns are essential physical components of the distinctiveness and uses them in evaluating the appropriateness of physical changes proposed within the District.

B. SCALE OF THE DISTRICT.

Vertical as well as horizontal distance is measured in human footsteps. Human size and untaxed physical capability, along with available technology and material, established the scale of the district. This human scale, reflected in the size of

buildings, contributes more to the distinctiveness of the commercial district than any other single component.

C. TEXTURE OF TYPICAL STREET SCENE (PATTERN CREATED BY SCALE, SETBACK, LANDSCAPING, DENSITY, TRAFFIC GENERATION, SIGNS, ETC.).

The typical street scene facilitates pedestrian traffic unfettered access to commercial uses.

The predominant ratio of solid wall area to area of openings, proportions and directional emphasis of wall openings and roof, parapet and floor shall be respected and maintained wherever possible.

D. TYPICAL BUILDING MATERIALS (WALLS: BRICK, WOOD; ROOFS: SLATE, WOOD AND TILE SHINGLES).

Design unity within the District is greatly enhanced by the use of relatively few materials and their repetition. Materials for exterior walls, doors, windows, roofs, paving, etc. shall be compatible in quality, color and texture with existing prevalent materials in the neighborhood.

E. TYPICAL COMMERCIAL BUILDING SITE PLAN.

The pattern within the Borough and the District is of relatively small residential and commercial buildings, punctuated by larger institutional and public buildings. Business and commercial buildings, however, should not substantially exceed other commercial buildings in the vicinity in mass, nor should they dominate them.

F. LIAISON WITH TOWN.

1. Visual Contact:

Because of the distinctive views of the Borough offered from Castle Hill Road and other sites in the Town, care should be taken to prevent the introduction of elements that would disrupt that element.

2. Physical Access:

Free-flowing, convenient traffic patterns, both vehicular and pedestrian, are the lifeblood of commerce and social intercourse. It is essential to public safety and to maintaining property values. Accordingly, it is one of the essential elements to be preserved, both for the short term and long term health of the community. Church Hill Road and Queen Street are burdened with a number of existing uses that contribute to the traffic problems currently existing the District, including three schools and a significant shopping center. Church Hill Road, moreover, previously provided the primary access for trucks between Route 184 and Route 25. With the upgrade to the railroad underpass, it will undoubtedly again provide that access. The Borough, however, has little discretion with respect to controlling traffic facilities on those two roadways - roadways that are at the crossroad of the District.

3. Size and Proportion:

The specific size of individual building elements makes a very significant difference in their appearance. Small differences in size may be readily apparent, particularly when they constitute a large proportional difference.

Certain elements are limited in their size because of historical building conventions and 19th century construction technology. In some instances, changes in building technology have resulted in corresponding changes in the prevalent sizes of particular elements. And while technological improvements through time have allowed increases in scale, such advances should not dictate changes in the community. The possible should not control the desirable. Thus, improperly sized buildings or uses would be detrimental to the overall well being of the District, especially given limited traffic facilities.

In general, it can be said that buildings of various styles derive much of their effect and importance from the fact that their various parts adhere to systems of scale and proportion that are unique to the respective styles. So, too, with community styles. To tamper with these relationships can be detrimental to the sense of the building and the community alike. Although the rules of scale and proportion are too numerous to set down here, decisions are based upon the Commission's knowledge of the norms.

4. Density:

Density of use and mass of structure shall be vigorously held to the legally permitted level, as per the Zoning Ordinance of the Borough of Newtown.

5. Streetscapes:

Proposed additions to existing structures and new buildings shall not be higher than the predominant building height on the block face between the two intersecting streets.

Applicants for volumetric additions affecting the street façade must prepare a block face drawing of the structure or structures proposed showing the area thereof as seen from the street, along with similar block face drawings of other buildings and structures in the immediate neighborhood, all rendered in the same scale, so as to show the proportional relationship of the proposal to other buildings and structures in the area.

SUMMARY

A. PREDOMINANT CHARACTERISTICS.

The distinctiveness of an area is created by its predominant characteristics, not the exceptions or deviations. While the Village District has variety in building designs, this variety is within discernable limits. Uncontrolled variation or designs out of context will not preserve the District's distinctiveness.

Though change is inevitable, even in an historic district, accommodating the District to the requirements of contemporary life should not be achieved at the cost of the integrity of the district's unique environment.

B. ADDITIONS AND NEW BUILDINGS.

All structures should be recognizable products of their time of construction. Contemporary design for additions to existing buildings and new structures is encouraged, but contemporary designs must be compatible with the distinctive character of the district and related to neighboring historic buildings in size, scale, materials, and site plan.

The size of business and commercial buildings must be limited as heretofore indicated to preserve the scale of the District. Large-scale business and commercial buildings are alien to the distinctiveness of the Village District and the Borough. Any good faith effort to comply with the legal requirement to preserve its distinctive character does not permit approval of large-scale business or commercial buildings.

With this background in mind, the following Design Regulations are adopted:

Village District Regulations

12.01.A The purpose of these regulations is to protect the Village District, which is comprised of those properties that abut Church Hill Road on the northern side between Wendover Road and the railroad tracks that mark the Borough boundary, those that abut Church Hill Road on the southern side that do not abut Main Street, those properties any portion of which abuts Queen Street on the easterly side between Church Hill Road to and including Newtown Middle School, and on the westerly side for a distance of 800 feet measured from Church Hill Road in accordance with the authority and intent of §8-2j of the General Statutes, as amended from time to time. In the event there is a conflict between the requirements of the Village District Regulations and the regulations applicable to the underlying zone, those in the Village District Regulation will control.

12.01.B (1) The purpose of these regulations is also to protect the Main Street Village Design District, which is comprised of those properties that abut Main Street and South Main Street extending to Johnny Cake Lake and those that abut Church Hill Road on the northerly side between Main Street and Wendover Road within the Borough of Newtown.

12.01.B (2) All properties lying within the Main Street Village Design District shall be subject to and shall conform to the requirements and standards contained in Article 12 of the Borough of Newtown Zoning Regulations, insofar as they are applicable, and shall be subject to Village District review thereunder provided further that properties in the Main Street Village Design District shall not be required to comply with the curbing, sidewalk and sidewalk lighting requirements contained therein.

[Findings, 12.01, 12.01B(1) and 12.01B(2) amended and added effective October 3, 2016]

12.02 Village District approval in accordance with these regulations, in addition

to the requirements of the underlying zoning district regulations, is required prior to any proposed new construction, substantial reconstruction or rehabilitation of properties within the District and in view from public roadways.

12.03 A. An application for Village District approval shall be submitted on a form to be provided by the Commission and shall contain such information as will allow the Commission to make a reasoned decision on each of the following design criteria, in addition to criteria set forth in the Zoning Regulations relating to uses and buildings permitted in Business and Professional zones, including, but not limited to the following:

1. Proposed buildings and modifications to existing buildings shall be constructed with appropriate materials and of building designs appropriate for a scenic and rural New England town, recognizing architectural scale, rhythm and proportion, and shall avoid large monolithic building forms;

2. Proposed buildings or modifications to existing buildings shall be harmoniously related to their surroundings, the terrain in the district and to the use, scale and architecture of existing buildings in the district that have a functional or visual relationship to the proposed building or modification;

3. All spaces, spaces, structures and related site improvements visible from public roadways shall be designed to be compatible with the elements of the area of the village district in and around the proposed building or modification;

4. The color, size, height, location, proportion of openings, roof treatments, building materials and landscaping of the property that is to be improved and any proposed signs and lighting shall be evaluated for compatibility with the local architectural motif and the maintenance of views, historic buildings, monuments and landscaping; and

5. The removal or disruption of historic, traditional or significant structures or architectural elements shall be minimized.

B. All development in the village district shall be designed to achieve the following compatibility objectives:

1. The building and layout of buildings and included site improvements shall reinforce existing buildings and streetscape patterns and the placement of buildings and included site improvements shall assure there is no adverse impact on the district:

- a. proposed streets shall be connected to the existing District road network, wherever possible;
- b. open spaces within the proposed development shall reinforce open space patterns of the district, in form and siting;
- c. locally significant features of the site such as distinctive buildings or sight lines of vistas from within the District, shall be integrated into the site design;

- d. the landscape design shall complement the district's landscape patterns;
- e. the exterior signs, site lighting and accessory structures shall support a uniform architectural theme and be compatible with their surroundings; and
- f. the scale, proportions, massing and detailing of any proposed building shall be in proportion to the scale, proportion, massing and detailing in the District.

12.04 At the time of filing an application for Village District approval, the applicant shall pay a fee which will be comprised of a basic fee in accordance with Section 9.07 plus the cost to the Borough of Newtown for outside review as required by the following section, as that cost is established from time to time. The full fee under this section shall be paid prior to, and as a condition of, the issuance of the Commission's decision on the application. By submitting a Village District application, or authorizing another to make such an application on his behalf or with his consent, the owner of property that is the subject of the application agrees that, if the fee required by this section is not paid in full (including that portion of the fee necessitated by application review by a design professional) at the time the Commission issues its decision thereon, the amount of the fee remaining unpaid shall become a lien upon the property in favor of the Borough of Newtown, and the owner consents to the filing of a notice of lien therefore on the Land Records."

12.05 A. All applications for new construction and substantial reconstruction within the District and in view from public roadways may be subject to a referral, at the discretion of the Borough of Newtown Zoning Commission, to an architect, architectural firm, landscape architect, or planner who is a member of the American Institute of Certified Planners selected and contracted by the Commission and designated as the village district consultant for such application upon receipt. The consultant shall report his findings to the Commission within 35 days after the referral. **[Amended effective April 22, 2019]**

B. All such applications shall be considered at a public hearing to be conducted in accordance with the procedures and schedule provided in Title 8 of the General Statutes and these Regulations for special exceptions.

C. The Commission may approve non-substantial modifications of any Village District approval without a public hearing and without special notices otherwise required.

12.06 The commission may seek the recommendations of any town or regional agency or outside specialist with which it consults, including, but not limited to, the regional planning agency, the municipality's historical society, the Connecticut Trust for Historic Preservation and The University of Connecticut College of Agriculture and Natural Resources. Any reports or recommendations from such agencies or organizations shall be entered into the public hearing record.

12.07 Specific Regulatory Standards

All activity subject to Village District review shall comply with the following standards, provided, however, that any construction, reconstruction or rehabilitation of property during a five year look-back period that does not increase the gross floor area of a building by more than 500 square feet is exempt from such of the following infrastructure regulations as would otherwise require installation of sidewalks, granite curbing and sidewalk lighting. **[Amended effective 12.21.15]**

1. Design and Placement of Buildings. New construction, substantial reconstruction and rehabilitation of buildings shall conform to the following: **[Amended effective 12.21.15]**

a. Permitted building designs are those appropriate for a scenic and rural New England village that recognize architectural scale, rhythm and proportion, avoid large monolithic building forms whose architectural appearance is devoid of traditional scale, rhythm and proportion, the design of which implements the use of traditional forms, shapes, and material.

b. Parking will be to the rear of the building, away from the street line. Placement of buildings shall not interfere with vehicular or pedestrian site lines. **[Added effective 12.21.15]**

c. Loading and Unloading areas shall be located at the rear or side of the building and screened from view from the adjacent properties, street and parking areas.

d. Dumpsters and Storage areas shall be located at the rear or side of the building and screened from view from the adjacent properties, street and parking areas.

e. Utility Equipment shall be located at the rear or side of the building and screened from view from the adjacent properties, street and parking areas. If the equipment creates noise or odor it is to be housed within a building that eliminates the sound or odor.

2. Maintenance of Public Views. No building shall be so designed or constructed, nor shall it be of such placement, height or mass as to obstruct the following public views:

- view from Main Street looking east down Church Hill Road
- view of or from the Flagpole
- view from Castle Hill
- view of the Meeting House
- view of Trinity Church

[Added effective 12.21.15]

3. Design, Paving Materials and Placement of Public Roadways.

a. Road Edge Definition and Curb Cuts will be designed:

1. To control vehicular traffic congestion on streets and to improve the pedestrian environment. Vehicular traffic will be improved by the management of the number of driveways accessing the streets and crossing the sidewalks. Pedestrian traffic will be improved by constructing pedestrian circulation patterns of uninterrupted walkways safe and separate from vehicular traffic.

2. To improve identification of pedestrian crosswalks the pavement is to be distinctive in color and of a material both raised slightly above road level and textured. Acceptable materials are compressed, colored and imprinted concrete, paver blocks, Belgium block, cobblestone, brick or other similar materials.

b. Curbing of driveways and on the street shall be granite curbing, which shall have a beveled edge along the outside edge facing the street or drive.

c. For all new construction and substantial reconstruction of buildings in the Village District, sidewalks are to be installed along the street frontage and through access ways. The Borough Sidewalk Ordinance is on file with the Borough Clerk and with the Newtown Town Clerk and sidewalk lighting is to be installed in accordance with the Village District Sidewalk Lighting Plan. Sidewalks must continue across driveways clearly designating the pedestrian's right of way. Sidewalk lighting is to be installed in accordance with the Village District Sidewalk Lighting Plan."

[Last revised effective 4.22.19]