

Chapter 320. ZONING: FORM-BASED CODE

[HISTORY: Adopted by the Town Council of the Town of Newton 4-9-2012 by Ord. No. 2012-12. *Editor's Note: This ordinance also repealed former Ch. 320, Zoning, adopted 6-8-1970 as Ch. 20 of the Revised General Ordinances, as amended. Amendments noted where applicable.*]

GENERAL REFERENCES

Flood damage prevention — See Ch. **120**.

Historic preservation — See Ch. **139**.

Land use procedures — See Ch. **166**.

Land subdivision and site plan review — See Ch. **240**.

Stormwater control — See Ch. **258**.

§ 320-1. Title and purpose; applicability and intent.

- A. Title and purpose. This chapter shall be known and may be cited as the Form-Based Code Zoning Ordinance of the Town of Newton.
- B. Applicability.
 - (1) Provisions of this Code are activated by "shall" when required; "should" when recommended; and "may" when optional.
 - (2) The provisions of this Code, when in conflict, shall take precedence over those of other codes, ordinances, regulations and standards except the local health and safety codes.
 - (3) Chapter **240**, Land Subdivision and Site Plan Review, shall continue to apply to development applications where appropriate. In the case of conflicting provisions, the provisions of the Form-Based Code Zoning shall apply. The requirements of this chapter shall not be construed to eliminate the need for an applicant or property owner to obtain

approvals from other agencies with jurisdiction, such as the county or the State of New Jersey.

(4) Where in conflict, numerical metrics shall take precedence over graphic metrics.

C. Intent. The intent and purpose of this Code is to enable, encourage and qualify the implementation of the following policies:

(1) The community:

(a) That neighborhoods and regional centers should be compact, pedestrian-oriented and mixed-use.

(b) That neighborhoods and regional centers should be the preferred pattern of development and that districts specializing in a single use should be the exception.

(c) That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.

(d) That interconnected networks of thoroughfares should be designed to disperse traffic and reduce the length of automobile trips.

(e) That within neighborhoods, a range of housing types and price levels should be provided to accommodate diverse ages and incomes.

(f) That appropriate building densities and land uses should be provided within walking distance of transit stops.

(g) That civic, institutional, and commercial activity should be embedded in downtowns, not isolated in remote single-use complexes.

(h) That schools should be sized and located to enable children to walk or bicycle to them.

(i) That a range of open space including parks, squares, and playgrounds should be distributed within neighborhoods and downtowns.

(2) The block and the building:

(a) That buildings and landscaping should contribute to the physical definition of thoroughfares as civic places.

(b) That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public areas.

- (c) That the design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.
- (d) That architecture and landscape design should grow from local climate, topography, history, and building practice.
- (e) That buildings should provide their inhabitants with a clear sense of geography and climate through energy efficient methods.
- (f) That civic buildings and public gathering places should be provided as locations that reinforce community identity and support self-government.
- (g) That civic, historic and landmark buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the Town.
- (h) That the preservation and renewal of historic buildings should be facilitated, to affirm the continuity and evolution of society.
- (i) That the harmonious and orderly evolution of urban and suburban areas should be secured through form-based codes.

(3) The transect:

- (a) That municipalities should provide meaningful choices in living arrangements as manifested by distinct physical environments.
- (b) That the Transect Zone descriptions on Table 1 *Editor's Note: See § 320-2B.* shall constitute the intent of this Code with regard to the general character of each of these environments.

(4) User instructions:

- (a) Locate your parcel on the Transect Zoning Map and identify the parcel and transect zone or special district that your parcel is located in.
- (b) Identify frontage type, building type and permitted uses for the transect or special district for you parcel. Refer to the parking and landscaping standards for this chapter as well as site plan and subdivision standards in Chapter **240**.

§ 320-2. Zone Map, transect zones and permitted uses.

A. Transect Zone Map. The following map, "Transect Zone Map," codifies the location and identification of each transect as well as special districts within the Town. *Editor's Note: The map is included at the end of this chapter.* The permitted uses for each transect zone or special district are listed in § **320-2C**.

B. Transect zone district and special district descriptions. The following subsection provides the general description and character of each transect zone district and special district.

- (1) T-1 — Natural Areas. The T-1 Transect Zone covers the majority of wetlands, water and wetland buffers and lands which are already preserved from development including parks and cemeteries. Uses permitted in the T-1 Transect include parks and recreation uses for active parks, ecoparks and nature preserves for passive recreation including walking trails and bike paths.
- (2) T-2 — Rural Reserved Areas. The T-2 Transect Zone covers large tracts of land that are undeveloped, farmlands, former quarries, etc., which are located in the outskirts of Town and should be preserved from intensive development and kept as areas which are open and rural in nature.
- (3) T-3 — Neighborhood Residential. The T-3 Transect Zone covers the majority of the single-family residential areas that span out from the downtown and neighborhood center areas and permitted uses generally include single-family residential and accessory apartments.
- (4) T-4 — Neighborhood Services. The T-4 Transect Zone covers smaller mixed-use neighborhood centers and supports larger neighborhood centers that provide local services to neighborhoods. T-4 uses are generally mixed-use buildings with retail and/or offices on the first floor and offices and/or apartments on the upper floors.
- (5) T-5 — Town Core Support Area/Neighborhood Cores. The T-5 Transect Zone covers the area surrounding the Town Core that provides the majority of the housing and employment that directly supports the Town Core. The T-5 Transect also provides for Neighborhood Cores to serve some of the neighborhoods which are closer to the Town Core area. The permitted uses in the T-5 Transect generally include mixed-use, hotels, offices and multifamily buildings.
- (6) T-6 — Town Core. The T-6 Transect is a higher density, mixed and multiple use downtown area. This area provides for the majority of retail and commercial uses within the Town and should be identified as the Central Business District within the Town. This area has residential and office uses over the commercial uses to support day and evening uses in the downtown.
- (7) Special District 1: Hospital District - SD-1 covers the Newton Medical Center and support services for the hospital. The district is intended for hospital and medical uses and offices.

- (8) Special District 2: College District - SD-2 covers the Sussex County Community College campus. The district is intended for a college use and college support services. Student housing is permitted.
- (9) Special District 3: Retail/Manufacturing District - SD-3 covers the area along US Route 206 at its intersection with North and South Park Drive. This area includes existing large-scale retail and industrial uses. The area has potential to accept relocated light manufacturing and industrial uses which currently exist in redevelopment areas.
- (10) Special District 4: Industrial/Manufacturing District - SD-4 covers the existing industrial site and adjacent lands along and across from Sparta Avenue. This area includes an existing manufacturing facility and has potential for additional manufacturing and light industrial development to provide industries and employment within the Town. This area also has potential to accept relocated light manufacturing and industrial uses which currently exist in redevelopment areas. Where proposed development abuts residential areas, year-round buffers should be provided.
- (11) Special District 5: Office/Manufacturing District - SD-5 covers the Sparta Avenue redevelopment area, where office, light industrial and manufacturing uses are permitted.
- (12) Special District 6: Schools District - SD-6 covers the Newton High School, Halsted Street School and Merriam Avenue Elementary School. The district is intended for school uses and support services.
- (13) Special District 7: Senior Community District - SD-7 covers the Bristol Glen/United Methodist Homes Continuing Care and Assisted Living Facility. This district is intended for a continuing care retirement community and related support services.
- (14) Special District 8: Power Substation District - SD-8 covers the Newton Power Substation. The district is intended for use as a power substation and related uses.
- (15) Special District 9: Planned Neighborhood Development District - SD-9 covers approximately 52 acres along High Street at the western edge of Town. This area is intended for a planned mixed-use and residential district that will incorporate affordable housing.

C. Permitted uses. The following tables show permitted uses by transect zone and special district. A mix of uses is permitted based on building types designated as such. Unless expressly permitted in the table, all other uses are deemed to be prohibited. **[Amended 6-25-2012 by Ord. No. 2012-17]**

Permitted Uses Table — Transect Zones

KEY:

P — Permitted

NP — Not Permitted

PS — Permitted On Any Level Except Street Level

C — Conditional Use

| Use | | Transect | | | | | |
|---------------------------------------|---|----------|-----|-----|-----|-----|-----|
| | | T-1 | T-2 | T-3 | T-4 | T-5 | T-6 |
| Government/Civic/Institutional | | | | | | | |
| 1 | Private or parochial school | NP | NP | NP | P | P | P |
| 2 | Institutional use | NP | NP | NP | P | P | P |
| 3 | General hospital, nursing home, convalescent home | NP | NP | NP | P | P | NP |
| 4 | Community garden | P | P | P | P | P | P |
| 5 | Emergency services | NP | NP | P | P | P | P |
| 6 | Plaza/square/piazza | NP | NP | NP | P | P | P |
| 7 | Hospital/medical center | NP | NP | NP | NP | NP | NP |
| 8 | Cultural uses (museum/gallery/ library) | NP | NP | NP | P | P | P |
| 9 | Park/playground | P | P | P | P | P | P |
| 10 | House of worship | NP | P | P | P | P | P |
| 11 | All public buildings and uses | NP | NP | NP | P | P | P |
| 12 | Government or public utility use (not including storage uses and garages) | P | P | P | P | P | P |

| | | | | | | | |
|-----------------------------------|---|----|----|----|----|----|----|
| 13 | Governmental administrative /institutional uses | NP | NP | NP | P | P | P |
| 14 | Judicial | NP | NP | NP | NP | P | P |
| 15 | Law enforcement | NP | NP | NP | P | P | P |
| 16 | Public works | P | P | P | P | P | P |
| 17 | Community center/senior center | NP | P | P | P | P | P |
| 18 | Cemeteries | C | C | C | NP | NP | NP |
| Commercial Retail Services | | | | | | | |
| 19 | Antique stores | NP | NP | NP | P | P | P |
| 20 | Appliance stores | NP | NP | NP | P | P | P |
| 21 | Arts and crafts stores | NP | NP | NP | P | P | P |
| 22 | Bakeries | NP | NP | NP | P | P | P |
| 23 | Banks | NP | NP | NP | P | P | P |
| 24 | Beauty salons, spas and barber shops | NP | NP | NP | P | P | P |
| 25 | Bed-and-breakfasts | NP | C | C | P | P | P |
| 26 | Auto body shops | NP | NP | NP | C | C | NP |
| 27 | Bookstores (excluding adult bookstores) | NP | NP | NP | P | P | P |
| 28 | Camera and photographic supply stores | NP | NP | NP | P | P | P |
| 29 | Candy and ice cream shops | NP | NP | NP | P | P | P |
| 30 | Clothing apparel and shoe stores | NP | NP | NP | P | P | P |

| | | | | | | | |
|----|--|----|----|----|----|---|----|
| 31 | Child-care centers | NP | NP | P | P | P | PS |
| 32 | Coffee shops | NP | NP | NP | P | P | P |
| 33 | Computer supplies and software stores | NP | NP | NP | P | P | P |
| 34 | Cosmetic stores, beauty supply stores and perfumeries | NP | NP | NP | P | P | P |
| 35 | Delicatessens | NP | NP | NP | P | P | P |
| 36 | Department stores | NP | NP | NP | P | P | P |
| 37 | Diners, cafes and restaurants | NP | NP | NP | P | P | P |
| 38 | Drugstores | NP | NP | NP | P | P | P |
| 39 | Electronics, audio and cell phone stores | NP | NP | NP | P | P | P |
| 40 | Farmers' market | P | P | P | P | P | P |
| 41 | Florists | NP | NP | NP | P | P | P |
| 42 | Food (health) and supplement stores | NP | NP | NP | P | P | P |
| 43 | Furniture stores | NP | NP | NP | P | P | P |
| 44 | Garden supply stores | NP | NP | NP | P | P | P |
| 45 | Gas stations | NP | NP | NP | C | C | NP |
| 46 | Grocery stores and specialty food stores | NP | NP | NP | P | P | P |
| 47 | Hobby, toy and game stores | NP | NP | NP | P | P | P |
| 48 | Home goods, furnishings and accessories stores | NP | NP | NP | P | P | P |
| 49 | Hotels (excluding extended stay/efficiencies/ single room occupancies) | NP | NP | NP | NP | P | P |

| | | | | | | | |
|-------------------------------------|---|----|----|----|---|---|-----|
| 50 | Jewelers and watch stores (excluding pawn shops) | NP | NP | NP | P | P | P |
| 51 | Luggage and leather goods | NP | NP | NP | P | P | P |
| 52 | Meat markets | NP | NP | NP | P | P | P |
| 53 | Motor vehicle sales | NP | NP | NP | C | C | NP |
| 54 | Musical instruments and supplies stores | NP | NP | NP | P | P | P |
| 55 | Optical goods stores | NP | NP | NP | P | P | P |
| 56 | Package goods stores/liquor stores | NP | NP | NP | P | P | P |
| 57 | Paint, wallpaper, and/or hardware stores | NP | NP | NP | P | P | P |
| 58 | Pet grooming, pet shops and pet supplies | NP | NP | NP | P | P | P |
| 59 | Pharmacies | NP | NP | NP | P | P | P |
| 60 | Photographers and picture framers | NP | NP | NP | P | P | P |
| 61 | Recreational facilities, i.e., gym, bowling alley | NP | NP | NP | P | P | P |
| 62 | Souvenir shops | NP | NP | NP | P | P | P |
| 63 | Sports and recreation stores (excluding gun stores) | NP | NP | NP | P | P | P |
| 64 | Stationery, office supply and card stores | NP | NP | NP | P | P | P |
| 65 | Taverns and bars | NP | NP | NP | P | P | P |
| Business/Office/Professional | | | | | | | |
| 66 | General and professional offices | NP | NP | NP | P | P | PS* |
| 67 | Business services | NP | NP | NP | P | P | P |

| | | | | | | | |
|----|--|----|----|----|---|---|-----|
| 68 | Laboratory (medical/dental) | NP | NP | NP | P | P | NP |
| 69 | Office (dental, medical, veterinary, administrative) | NP | NP | NP | P | P | PS* |
| 70 | Photo or art studios | NP | NP | NP | P | P | P |
| 71 | Home occupations | NP | C | C | P | P | PS |
| 72 | Professional occupations | NP | C | C | P | P | P |
| 73 | Licensed taxicab business office | NP | NP | NP | C | C | NP |

Light Industrial

| | | | | | | | |
|----|------------------------------|----|----|----|----|----|----|
| 74 | Research and development | NP | NP | NP | P | NP | NP |
| 75 | Warehouse and storage | NP | NP | NP | NP | NP | NP |
| 76 | Light manufacturing | NP | NP | NP | NP | NP | NP |
| 77 | Product filling and assembly | NP | NP | NP | NP | NP | NP |
| 78 | Artisanal workshop | NP | NP | NP | P | P | P |
| 79 | Food and beverage production | NP | NP | NP | NP | NP | NP |

Residential

| | | | | | | | |
|----|-------------------------------|----|----|----|---|---|----|
| 80 | Single-family detached | NP | P | P | P | P | NP |
| 81 | Duplex | NP | NP | P | P | P | NP |
| 82 | Age restricted | NP | NP | NP | P | P | NP |
| 83 | Residential over commercial | NP | NP | NP | P | P | P |
| 84 | Flats or lofts (elevator fed) | NP | NP | NP | P | P | PS |

| | | | | | | | |
|-----------------------|--|----|----|----|----|----|----|
| 85 | Group care (elder-care, extended care, special care) | NP | C | C | P | P | P |
| 86 | Live/work | NP | NP | NP | P | P | P |
| 87 | Residential cluster development | NP | C | C | NP | NP | NP |
| Other | | | | | | | |
| 88 | Club, lodge or fraternal organization | NP | C | C | P | P | P |
| 89 | Farming and agricultural uses | P | C | C | NP | NP | NP |
| 90 | Parking structure as principal use | NP | NP | NP | P | P | P |
| 91 | Surface parking as principal use | NP | NP | NP | P | P | NP |
| 92 | Temporary uses | P | NP | NP | P | P | P |
| Accessory Uses | | | | | | | |
| 93 | Accessory apartment | NP | P | P | P | P | NP |
| 94 | Carport | NP | P | P | P | P | NP |
| 95 | Private garage | NP | P | P | P | P | NP |
| 96 | Storage shed | NP | P | P | P | P | NP |
| 97 | Surface parking lot | NP | NP | NP | P | P | P |
| 98 | Parking structure | NP | NP | NP | P | P | P |
| 99 | Sidewalk cafe (March 1 - Dec. 1 provided snow and ice are not present) | NP | NP | NP | P | P | P |
| 100 | Street furniture | P | P | P | P | P | P |
| 101 | Drive-through facility | NP | NP | NP | P | P | NP |

| | | | | | | | |
|-----|--|----|----|----|----|----|----|
| 102 | Outdoor display (March 1 - Dec. 1 provided snow and ice are not present) | NP | NP | NP | P | P | P |
| 103 | Outdoor storage | NP | NP | NP | NP | NP | NP |

* Professional offices are permitted on the first floor or street level north of Main Street in the T-6 Zone.

Permitted Uses Table — Special Districts

KEY:

P — Permitted

NP — Not Permitted

PS — Permitted On Second Floor Or Above Only

C — Conditional Use

| | | Districts | | | | | | | | |
|---------------------------------------|---|-----------|------|------|------|------|------|------|------|------|
| Use | | SD-1 | SD-2 | SD-3 | SD-4 | SD-5 | SD-6 | SD-7 | SD-8 | SD-9 |
| Government/Civic/Institutional | | | | | | | | | | |
| 1 | Private or parochial school | NP | P | NP | NP | NP | P | NP | NP | NP |
| 2 | Institutional use | P | P | NP | NP | NP | P | P | NP | NP |
| 3 | General hospital, nursing home, convalescent home | P | NP | NP | NP | NP | NP | P | NP | NP |
| 4 | Community garden | P | P | NP | NP | P | P | P | NP | P |
| 5 | Emergency services | P | P | P | P | NP | NP | P | NP | P |

| | | | | | | | | | | |
|----|---|----|----|----|----|----|----|----|----|----|
| 6 | Plaza/square/ piazza | P | P | NP | NP | P | P | P | NP | P |
| 7 | Hospital/medical center | P | NP | NP | NP | NP | NP | P | NP | NP |
| 8 | Cultural uses (museum/gallery/ library) | P | P | P | NP | NP | P | NP | NP | P |
| 9 | Park/playground | P | P | P | P | P | P | P | NP | P |
| 10 | House of worship | P | P | P | P | P | P | P | P | P |
| 11 | All public buildings and uses | NP | P | NP | NP | NP | P | P | NP | P |
| 12 | Government or public utility use (not including storage uses and garages) | P | P | P | P | P | P | P | P | P |
| 13 | Governmental administrative/ institutional uses | NP | P | NP | NP | NP | P | P | NP | P |
| 14 | Judicial | NP | NP | NP | NP | NP | NP | NP | NP | NP |
| 15 | Law enforcement | NP | P | NP | NP | NP | P | NP | NP | P |
| 16 | Public works | P | P | P | P | P | P | P | P | P |
| 17 | Community center/senior center | P | P | P | NP | P | P | P | NP | P |
| 18 | Cemeteries | C | NP | C | NP | NP | NP | NP | NP | C |

Commercial Retail Services

| | | | | | | | | | | |
|----|------------------------|----|----|---|----|---|----|----|----|---|
| 18 | Antique stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 19 | Appliance stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 20 | Arts and crafts stores | NP | NP | P | NP | P | NP | P | NP | P |
| 21 | Bakeries | NP | P | P | NP | P | NP | P | NP | P |

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| | | | | | | | | | | |
|----|--|----|----|---|----|----|----|----|----|----|
| 41 | Food (health) and supplement stores | NP | NP | P | NP | P | NP | P | NP | P |
| 42 | Furniture stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 43 | Garden supply stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 44 | Grocery stores and specialty food stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 45 | Hobby, toy and game stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 45 | Home goods, furnishings and accessories stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 46 | Hotels (excluding extended stay/efficiencies/ single room occupancies) | NP | NP | P | NP | P | NP | NP | NP | P |
| 47 | Jewelers and watch stores (excluding pawn shops) | NP | NP | P | NP | P | NP | NP | NP | P |
| 48 | Luggage and leather goods | NP | NP | P | NP | P | NP | NP | NP | P |
| 49 | Meat markets | NP | NP | P | NP | P | NP | NP | NP | P |
| 50 | Motor vehicle sales | NP | NP | C | C | NP | NP | NP | NP | NP |
| 51 | Musical instruments and supplies stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 52 | Optical goods stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 53 | Package goods stores/liquor stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 54 | Paint, wallpaper, and/or hardware stores | NP | NP | P | NP | P | NP | NP | NP | P |
| 55 | Pet grooming, pet shops and pet supplies | NP | NP | P | NP | P | NP | NP | NP | P |
| 56 | Pharmacies | P | NP | P | NP | P | NP | P | NP | P |
| 57 | Photographers and picture framers | NP | NP | P | NP | P | NP | NP | NP | P |

| | | | | | | | | | | |
|-------------------------------------|--|----|----|----|----|----|----|----|----|----|
| 58 | Recreational facilities, i.e., gym, bowling alley | NP | P | P | NP | P | NP | P | NP | P |
| 59 | Souvenir shops | P | P | P | NP | P | NP | P | NP | P |
| 60 | Sports and recreation stores (excluding gun stores) | NP | NP | P | NP | P | NP | NP | NP | P |
| 61 | Stationery, office supply and card stores | P | NP | P | NP | P | NP | P | NP | P |
| 62 | Taverns and bars | NP | NP | P | NP | P | NP | NP | NP | P |
| Business/Office/Professional | | | | | | | | | | |
| 63 | General and professional offices | NP | NP | P | NP | P | NP | NP | NP | P |
| 64 | Business services | NP | NP | P | NP | P | NP | NP | NP | P |
| 65 | Laboratory (medical/dental) | P | NP | P | NP | P | NP | NP | NP | P |
| 66 | Medical office (professional, dental, medical, veterinary, administrative) | P | NP | P | NP | P | NP | P | NP | P |
| 67 | Photo or art studios | NP | NP | P | NP | NP | NP | NP | NP | P |
| 68 | Home occupations | NP | NP | NP | NP | NP | NP | NP | NP | C |
| 69 | Professional occupations | NP | NP | C | C | NP | NP | C | NP | C |
| 70 | Licensed taxicab business offices | NP | NP | C | C | NP | NP | NP | NP | NP |
| Light Industrial | | | | | | | | | | |
| 71 | Research and development | P | NP | P | P | P | NP | NP | NP | NP |
| 72 | Warehouse and storage | NP | NP | P | P | P | NP | NP | NP | NP |
| 73 | Light manufacturing | NP | NP | P | P | P | NP | NP | NP | NP |

| | | | | | | | | | | |
|----|------------------------------|----|----|---|---|---|----|----|----|----|
| 74 | Product filling and assembly | NP | NP | P | P | P | NP | NP | NP | NP |
| 75 | Artisanal workshop | NP | NP | P | P | P | NP | NP | NP | NP |
| 76 | Food and beverage production | NP | NP | P | C | C | NP | NP | NP | NP |

Residential

| | | | | | | | | | | |
|----|---|----|----|----|----|----|----|----|----|----|
| 77 | Single-family detached | NP | NP | NP | NP | NP | NP | P | NP | P |
| 78 | Duplex | NP | NP | NP | NP | NP | NP | P | NP | P |
| 79 | Age restricted | NP | NP | NP | NP | NP | NP | P | NP | P |
| 80 | Residential over commercial | NP | P | P | NP | P | NP | P | NP | P |
| 81 | Flats or lofts (elevator fed) | NP | P | NP | NP | P | NP | P | NP | P |
| 82 | Group care unit (elder-care, extended care, special care) | P | NP | NP | NP | NP | NP | P | NP | C |
| 83 | Live/work | NP | NP | P | NP | P | NP | P | NP | P |
| 84 | Residential cluster | NP | NP | NP | NP | NP | NP | NP | NP | NP |

Other

| | | | | | | | | | | |
|----|---------------------------------------|----|---|----|----|----|----|---|----|---|
| 85 | Club, lodge or fraternal organization | NP | P | P | C | C | NP | C | NP | C |
| 86 | Farming and agricultural uses | C | C | NP | NP | NP | NP | C | NP | C |
| 87 | Parking structure as principal use | P | P | P | NP | P | NP | P | NP | P |
| 88 | Surface parking as principal use | NP | P | P | NP | NP | NP | P | P | P |
| 89 | Temporary uses | P | P | P | P | P | P | P | P | P |

Accessory Uses

| | | | | | | | | | | |
|-----|--|----|----|----|----|----|----|----|----|----|
| 90 | Accessory apartment | NP | NP | NP | NP | NP | NP | NP | NP | P |
| 91 | Carport | NP | NP | NP | NP | NP | NP | P | NP | P |
| 92 | Private garage | NP | NP | NP | NP | NP | NP | P | NP | P |
| 93 | Storage shed | NP | NP | NP | NP | NP | NP | P | NP | P |
| 94 | Surface parking lot | P | P | P | P | P | P | P | P | P |
| 95 | Parking structure | P | P | P | NP | P | P | P | NP | P |
| 96 | Sidewalk cafe (March 1 - Dec. 1 provided snow and ice are not present) | NP | P | P | NP | NP | NP | P | NP | P |
| 97 | Street furniture | P | P | P | NP | P | P | P | NP | P |
| 98 | Drive-through facility | NP | NP | P | NP | NP | NP | NP | NP | NP |
| 99 | Outdoor displays (March 1 - Dec. 1 provided snow and ice are not present) | NP | P | P | NP | NP | NP | P | NP | P |
| 100 | Temporary outdoor storage of manufactured items pending shipment (max. 48 hours) | NP | NP | P | P | P | NP | NP | NP | NP |

§ 320-3. Definitions.

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

ACCESSORY APARTMENT

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

ACCESSORY BUILDING

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

ACCESSORY BUILDING HEIGHT

An accessory building's vertical distance measured from the average elevation of the finished grade along the front of the building to mean elevation of the roof surface.

ACCESSORY BUILDING SETBACK

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

ACCESSORY USE

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

AFFORDABLE HOUSING

Dwellings consisting of rental or for-sale units that are provided as required under the Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.).

ANTIQUE STORE

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

ARBOR

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

ARCADE

A private frontage conventional for retail use wherein the facade is a colonnade supporting habitable space that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line.

ARCHITECTURAL PANELING

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

ARTISANAL WORKSHOP

Shops of special trade including the manufacturing, compounding, assembly processing, packaging or similar treatment of such products as: baked goods, candy, ceramics, pottery, china, weaving and other textile arts, painting, cooperage, woodworking and other artistic endeavors and similar trades. Retail sales on the premises of products made on the premises are required in the T-6 Zone. Artisanal workshops shall not exhibit any exterior noise, smell, glare or dust from manufacturing. If any exterior noise, smell, glare or dust is present, the use shall be classified as light manufacturing. **[Amended 6-25-2012 by Ord. No. 2012-17]**

ATTIC

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

AWNING

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

AWNING/CANOPY SIGN

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

BAKERY

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

BALCONY

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

BED-AND-BREAKFAST

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

BLOCK

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

BLOCK FACE

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

BOARDINGHOUSE or LODGING HOUSE

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

BREEZEWAY

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

BUFFER

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

BUILDING

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

BUILDING COVERAGE

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

BUILDING DEPTH

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

BUILDING DISPOSITION

The placement of a building on its lot.

BUILDING FACE OFFSET

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

BUILDING FRONTAGE

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

BUILDING HEIGHT

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

BUILDING TYPE

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

BUILDING WIDTH

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

BUSINESS SERVICES

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

BUS STOP SHELTERS or TRANSIT SHELTERS

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

CARPORT

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

CISTERN

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

CIVIC

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

CIVIC BUILDING

A building designed specifically for a civic function.

CIVIC SPACE

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

CLUB, LODGE or FRATERNAL ORGANIZATION

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

CLUSTERING

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

COFFEE SHOP or CAFE

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

COLONNADE

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

COMMERCIAL

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

COMMERCIAL BUILDING

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

COMMERCIAL INSTRUCTIONAL ACTIVITIES

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

COMMON YARD

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

COMMUNITY GARDEN

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

CONFIGURATION

The form of a building, based on its massing, private frontage, and height.

CONVALESCENT HOME or NURSING HOME

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

CORNER LOT

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

CORNICE

The topmost element of a building facade composed of moldings for an entablature in formal architecture orders or used alone at the roofline or ceilings.

CORNICE LINE

A continuous horizontal cornice feature that provides a vertical break within the facade and/or defines the roofline along the top of the building.

COTTAGE

An edgeyard building type. A single-family dwelling, on a regular lot, often shared with an accessory building in the back yard.

COUNTY

The County of Sussex in the State of New Jersey.

COURT

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

COURTYARD BUILDING

A building that occupies three or more boundaries of its lot while internally defining one or more private patios.

CRAFT STORE

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

CULTURAL USES

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

CURB

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

CURB RADIUS

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

DECORATIVE PAVING

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

DENSITY

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

DESIGN SPEED

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

DIRECTIONAL SIGN

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

DISPLAY WINDOWS

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

DOORYARD

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

DRIVE-THROUGH FACILITY

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

DRIVEWAY

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

DRUG REHABILITATION CLINIC or SUBSTANCE ABUSE TREATMENT FACILITY

A facility used for the purposes of temporary or long-term inpatient treatment of victims of alcohol or drug use or addiction.

DRY-CLEANING ESTABLISHMENT

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

EAVE HEIGHT

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

EDGEYARD BUILDING

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

EFFECTIVE PARKING

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

EFFECTIVE TURNING RADIUS

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

ELDER-CARE CENTER

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

ELEVATION

An exterior wall of a building not along a frontage line. See "facade."

ELEVATOR FLATS

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

EMERGENCY SERVICES

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

ENCROACH

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

ENCROACHMENT

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

ENFRONT

To place an element along a frontage, as in “porches enfront the street.”

ENTERTAINMENT

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

ESTATE HOUSE

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

EXPRESSION LINE

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

EXTENDED CARE FACILITY

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

EXTENSION LINE

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

FACADE

The exterior wall of a building that is set along a frontage line. See “elevation.”

FACADE FENESTRATION

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

FACADE/WALL SIGN

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

FARMERS’ MARKET

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

FEATHER FLAG

Also known as swooper flags, bowflags or flutter flags, these flags are irregular-shaped rectangular flags attached horizontally to a flag pole so that the edge of the flag flutters in the wind. Feather flags are typically ground-mounted.

FINANCIAL SERVICES

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

FIRST-FLOOR ELEVATION

A building’s vertical measurement from the mean level of the ground abutting the building to the mean level of the first floor of the building.

FIRST-STORY CLEAR HEIGHT

A building’s vertical measurement from the mean level of the first floor of the building to the mean level of the second floor of the building.

FLEX MIXED-USE BUILDING

A multistory building that contains ground-floor commercial uses, with upper-floor residential, retail, office or other commercial

uses. These buildings may be attached, semiattached or detached. They are served by elevators and intended for the highest density areas of the Town.

FOOD AND BEVERAGE PRODUCTION

The production of food or beverage products from raw goods and/or farm products, such as salsa from vegetables, cheese from milk, jams and pies from fruit, juice from fruits or vegetables, etc. (syn. value added food production).

FORM-BASED CODE

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

FRONTAGE

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

FRONTAGE LINE

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

FRONTAGE PERCENTAGE

The percentage of the width of a lot that is required to be occupied by the building's primary façade (syn. frontage build-out).

FRONTAGE TYPE

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

FRONT FACADE ENCROACHMENTS

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

FRONT YARD SETBACK

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

FUNERAL HOME or MORTUARY

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

GALLERY

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

GALLERY (ART)

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

GARAGE (PRIVATE-DETACHED)

An accessory building used for the storage of motor vehicles.

GARAGE (PUBLIC)

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

GASOLINE SERVICE STATION OR FILLING STATION

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

GATEWAY

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

GIS (GEOGRAPHIC INFORMATION SYSTEM)

A computerized program in widespread municipal use that organizes data on maps.

GOVERNMENT/CIVIC/INSTITUTIONAL BUILDING

A building that contains governmental, civic, institutional or religious uses. They are typically significant buildings that may have large setbacks, monumental and unique design characteristics, public art installations and/or public space areas. Examples include

courthouses, government administration offices, schools, libraries, museums and places of worship. They do not contain commercial, residential or industrial uses and are typically fully detached.

GREENFIELD

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

GREEN ROOF

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

GREENWAY

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

GREY WATER

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

GROUND-FLOOR FRONT FACADE FENESTRATION

The ratio of ground-floor front window area to ground-floor front facade area. Window area may include windows contained in doors.

HARDSCAPE

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

HIGHWAY

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

HOME OCCUPATION

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

HOME OFFICE

An occupation carried on in a dwelling unit or accessory building on the same lot by the resident thereof, provided that the use is

limited in extent and incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. A home office does not involve customers or clients visiting the residence and does not include any nonresident employees. A home office is permitted in all residential dwelling units and does not require a zoning permit provided that it is not visible from the exterior of the building, there is no signage, employees or customers visiting the site.

HORIZONTAL FACADE BANDING

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

HORIZONTAL FACADE BREAK

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

HOSPITAL/MEDICAL CENTER

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

HOTEL

A facility offering transient lodging accommodations to the general public and which must include lobbies and concierge services. It may include a restaurant, meeting rooms, entertainment and recreational facilities or banquet halls. Lodging may not be for more than 28 consecutive days and must be computed by the day. Does not include boardinghouse or lodging house (syn. lodging).

HOUSE

An edgeyard building type, usually a single-family dwelling on a large lot, often shared with an accessory building in the back yard (syn. single).

HOUSE OF WORSHIP

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

INDUSTRIAL USE

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

INFILL

- A. Noun: New development on land that had been previously developed, including most greyfield and Brownfield sites and cleared land within urbanized areas.
- B. Verb: To develop such areas.

INSTITUTIONAL USE

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

JUDICIAL

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

JUNKYARD

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

KIOSK

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

LABORATORY

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

LAW ENFORCEMENT

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

LIBRARY

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

LIGHT INDUSTRY

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

LINER BUILDING

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

LIVE/WORK BUILDING

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

LIVING FENCE

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

LODGING

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

LOT

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

LOT COVERAGE

All impervious coverage (as defined in Chapter **240**) on a lot (syn. lot occupation).

LOT DEPTH

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

LOT LAYERS

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

LOT SIZE or LOT AREA

The total square unit contents included within lot lines.

LOT WIDTH

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

MAIN CIVIC SPACE

The primary outdoor gathering place for a community. The main civic space is often, but not always, associated with an important civic building.

MANUFACTURING

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

MARQUEE SIGN

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

MASSAGE PARLOR

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

MASSING

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

MENU BOARD SIGN

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

MID-BLOCK CONNECTION

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

MIXED USE

Multiple functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a proximity determined by warrant.

MIXED-USE BUILDING

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

MOTOR VEHICLE SALES

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

MOTOR VEHICLE SERVICE AND REPAIR

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

MUSEUM/GALLERY

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

NET SITE AREA

All developable land within a site including thoroughfares but excluding land allocated as civic zones.

OFFICE

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

OFFICE/COMMERCIAL BUILDING

12/21/18

Town of Madison, WI

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

OFFSET

A change in elevation or primary facade plane with a difference of at least three feet.

OPEN SPACE

Land intended to remain undeveloped; it may be for civic space.

OUTBUILDING

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

PARK

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

PARKING BAY

Paved area used to accommodate either one or two rows of parking stalls plus one access lane.

PARKING STRUCTURE

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

PAWN SHOP

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

PERSONAL SERVICES

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

PHARMACY

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

PLANTER

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

PLANTING STRIP

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

PLAZA, SQUARE or PIAZZA

Public spaces located within the Town and its neighborhoods, which may contain one or more civic building(s) or space located within a primarily unpaved, formally configured area which may contain a small public lawn or park. Portions may be linear in shape though a square, rectangle, circle or other usable shape, as appropriate, shall be the primary focus of the area. Spaces shall be surrounded by canopy street trees. These sites shall be situated at prominent locations and are often dedicated to important events and/or citizens. Spaces may contain water features, an amphitheater, farmers' market, and in some appropriate instances, such as in conjunction with residential neighborhoods, may include limited play equipment and court.

PORTABLE SIGN

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

PORTICO

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

PRINCIPAL BUILDING

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

PRINCIPAL ENTRANCE

The main point of access for pedestrians into a building.

PRINCIPAL FRONTAGE

On corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of

minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot. See "frontage." See also building configuration and height tables associated with each transect zone for visual descriptions of lot layers. *Editor's Note: Building configuration and height tables for each transect zone are located in §§ 320-5 through 320-19.*

PRINCIPAL STORE FRONTAGE

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

PRIVATE FRONTAGE

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

PRIVATE SETBACK

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

PROFESSIONAL OCCUPATION

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

PROFESSIONAL OR TENANT IDENTIFICATION SIGN

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

PROJECTING, BLADE, OR HANGING SIGN

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

PUBLIC BUILDING

Any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business.

PUBLIC DANCE HALL

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

PUBLIC FRONTAGE

The area between the curb of the vehicular lanes and the frontage line.

PUBLIC FRONTAGE TYPE

See “frontage type.”

PUBLIC SPACE

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

PUBLIC SPACES PLAN

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

PUBLIC WORKS

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

QUICK RESPONSE CODE (QR) SIGN

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

RAIL STATION

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

RAIN GARDEN

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

REAL ESTATE SIGN

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

REAR ALLEY

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

REAR LANE (RI)

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

REARYARD BUILDING

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

REAR YARD SETBACK

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

RECESS

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

RECESS LINE

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

RECREATION

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

RECREATIONAL FACILITY

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

REGULATING PLAN

A Zoning Map or set of maps that shows the transect zones, civic zones, special districts, if any, and special requirements, if any, of areas subject to, or potentially subject to, regulation by the Form-Based Code.

RESEARCH AND DEVELOPMENT

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

RESIDENTIAL

Characterizing premises available for long-term human dwelling.

RESIDENTIAL ELEVATOR FLAT

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

RESTAURANT

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

RETAIL

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

RETAIL FRONTAGE

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

RETAIL SALES

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption, which render services incidental to the sale of such goods, and are engaged in activity designed to attract the general public to purchase such goods or merchandise. Pharmacies are permitted to have drive-through services. The location of drive-throughs shall be regulated in the same manner as parking.

RETAIL SERVICES

Establishments providing services, as opposed to products, to the general public, including financial services, insurance, real

estate, personal services, fitness centers or studios, galleries and similar uses.

RIGHT-OF-WAY WIDTH

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

ROAD (Rd)

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

ROOFLINE OFFSET

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

ROWHOUSE

A single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line; see rear-yard building (syn. townhouse).

RURAL BOUNDARY LINE

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

SCHOOL

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

SECONDARY FRONTAGE

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

SELF-STORAGE FACILITY or MINI-WAREHOUSE FACILITY

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

SETBACK

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

SHARED PARKING

Joint utilization of a parking area for more than one use, either on site or between nearby properties through a dedicated

arrangement, in order to fulfill their individual parking requirements because their prime operational hours do not overlap.

SHARED PARKING FACTOR

An accounting for parking spaces that are available to more than one function.

SHOPFRONT

A private frontage conventional for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. See § **320-26A**.

SIDE FACADE FENESTRATION

The ratio of side window area to side facade area. Window area may include windows contained in doors.

SIDE FACADE WINDOW SETBACK

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

SIDEWALK

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

SIDEWALK CAFE

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

SIDEYARD BUILDING

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

SIDE YARD SETBACK

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

SINGLE-FAMILY DWELLING

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

SOLAR SCREEN

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

SPECIAL CARE FACILITY

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

SPECIAL DISTRICT (SD)

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

SPECIAL FLOOD HAZARD AREA

A designation by the Federal Emergency Management Agency (FEMA) that may include the V (Velocity) Zones and Coastal A Zones where building construction is forbidden, restricted, or contingent upon raising to the base flood elevation.

SPECIALIZED BUILDING

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

SQUARE

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

STATE

The State of New Jersey.

STEPBACK

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

STOOP

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

STORAGE SHED

A subordinate structure or building used primarily for storage purposes.

STOREFRONT

A ground-floor facade with a large display window.

STOREFRONT WIDTH

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

STORY

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

STREET FRONTAGE

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

STREET FURNITURE

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

STREET REGULATING PLAN

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

STREETSCAPE

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

STREET SCREEN

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

STREET VENDORS

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

SURFACE PARKING LOT

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

SWALE

A low or slightly depressed natural area for drainage.

TATTOO PARLOR

An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one

or more of the following: 1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; 2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TAVERN or BAR

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

TEMPORARY SIGN

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

TEMPORARY USE

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

THEATER

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

THOROUGHFARE

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

TND

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

TOWN

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

TOWNHOUSE

See “townhouse building” or “rear-yard building” (syn. rowhouse).

TOWNHOUSE BUILDING

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

TRANSECT ZONE (T-ZONE)

One of several areas on the Zoning Map regulated by this Code. Transect zones are administratively similar to the land use zones in conventional codes, except that in addition to the usual building use, density, height, and setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and public frontage.

TRANSPARENCY

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

TURNING RADIUS

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

TWIN BUILDING

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

T-ZONE

Transect zone.

UPPER-FLOOR FRONT FACADE FENESTRATION

The ratio of upper-floor front window area to upper-floor front facade area. Window area may include windows contained in doors providing access to terraces, balconies or balconettes.

URBANIS

Collective term for the condition of a compact, mixed-use settlement, including the physical form of its development and its

environmental, functional, economic, and sociocultural aspects.

URBANIZED

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

UTILITY

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

VERTICAL FACADE BREAK

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

VETERINARIAN SERVICE

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

WAREHOUSE/LOFT BUILDING

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

WAREHOUSE or STORAGE

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

WINDOW-TO-EAVE OFFSET

A vertical measurement from the highest point of a facade window to the lowest point of an overhanging eave or other facade protrusion such as a balcony or balconette.

WINDOW SIGN

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

prespaced vinyl die-cut forms.

WIRELESS TELECOMMUNICATION TOWER

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

ZONING MAP

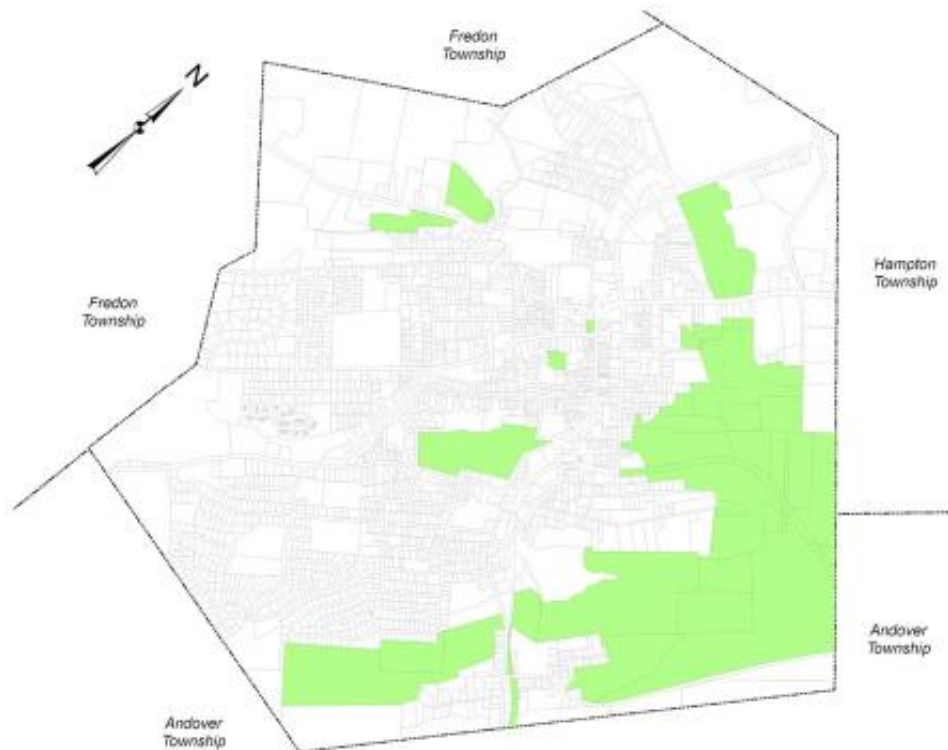
The map or maps that are part of the Zoning Ordinance and delineate the boundaries of individual zones and districts. *Editor's Note: The Transect Zone Map is included at the end of this chapter.* See "regulating plan."

§ 320-4. General provisions.

- A. Conformity to district regulations. Except as previously or hereinafter provided, no person shall locate, relocate, erect, construct, reconstruct, enlarge, or structurally alter any building or structure or use of land or building for any purpose, except in conformance with the regulations of the district in which such building or structure is located.
- B. Pending application for construction permits. Nothing in this chapter shall require any change in plans, construction, size or designated use of any building, structure or part thereof for which any construction permit has been granted before the enactment of this chapter; provided that construction from such plan shall have been started within 60 days after enactment of this chapter and shall be diligently pursued to completion.
- C. Accessory buildings.
 - (1) An accessory building attached to the main building shall comply in all respects with the requirements of this chapter applicable to the main building.
 - (2) Height/coverage limits. Accessory buildings in residential districts shall not be located in any required front yard, and may not occupy more than 30% of a required rear yard.
 - (3) Building separation. In residential districts, the minimum distance of any accessory building from an adjacent building shall be five feet. An accessory building may be permitted to straddle a side or rear lot line for service to two residences by common consent as contained in a recorded legal instrument between adjoining property owners.
- D. Exceptions and supplemental regulations to bulk and area requirements.
 - (1) Corner lots. Front yards shall be measured to the street line including both streets on a corner lot.

- (2) Permitted encroachments into setbacks. Building elements which are permitted encroachments include overhangs, steps, porches, breezeways, terraces, balconies, bay and box windows, decks, fireplaces or chimneys, and heating or air-conditioning units provided that no encroachment is more than half the total distance of the required setback.
- (3) Height exceptions. The height limitations of this chapter shall not apply to chimneys, church spires, standpipes, gables, cupolas, flag poles, monuments, television antenna or towers, cables, scenery lofts, or water tanks, elevator housings, and similar structures and necessary mechanical appurtenances for the zone in which the building is located; provided that no such exceptions shall cover at any level more than 10% of the area of the roof on which it is located.
- (4) Obstruction to vision at street intersections. In any district on any corner lot, no fence, sign or structure, planting, other obstruction to vision higher than three feet above the existing street grade at center line shall be erected or maintained within a triangle formed by the point of the street intersection and points in each of the intersecting lines 25 feet from the intersection.

§ 320-5. T-1 Natural Zone.



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



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

B. T-1 bulk requirements.

| | | |
|--------------------------------------|--------------|----------------|
| Base Residential Density | By right | Not applicable |
| Civic Spaces (§ 320-26C) | Park | Permitted |
| | Green | Not permitted |
| | Square | Not permitted |
| | Plaza | Not permitted |
| | Playground | Permitted |
| Lot Occupation | Lot width | Not applicable |
| | Lot coverage | Not applicable |

| | | |
|--|---------------------------|----------------|
| Setbacks — Principal Building | Front setback (principal) | Not applicable |
| | Front setback (secondary) | Not applicable |
| | Side setback | Not applicable |
| | Rear setback | Not applicable |
| | Frontage build-out | Not applicable |
| Setbacks — Accessory Building | Front setback | Not applicable |
| | Side setback | Not applicable |
| | Rear setback | Not applicable |
| Building Disposition (\$ 320-26B) | Edgeyard | Not applicable |
| | Sideyard | Not applicable |
| | Rearyard | Not applicable |
| | Courtyard | Not applicable |
| Private Frontages (\$ 320-26A) | Common yard | Not applicable |
| | Porch and pence | Not applicable |
| | Terrace or dooryard | Not applicable |
| | Forecourt | Not applicable |
| | Stoop | Not applicable |
| | Shopfront and awning | Not applicable |
| | Gallery | Not applicable |

Arcade

Not applicable

Building Configuration

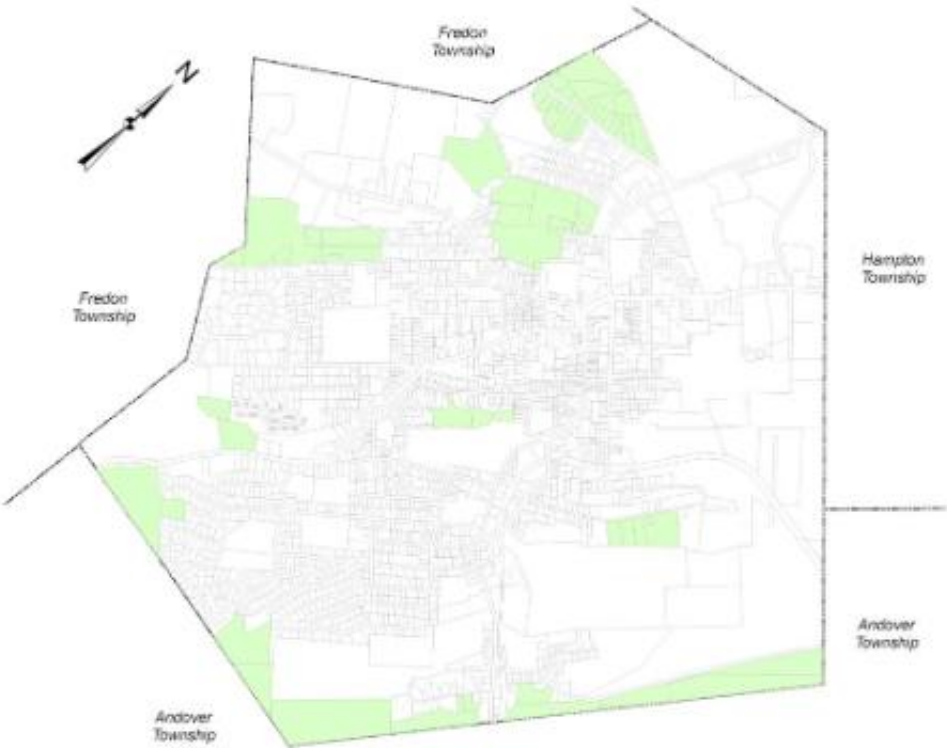
Principal building

Not applicable

Outbuilding

Not applicable

§ 320-6. T-2 Rural Residential Zone.



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



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

B. T-2 bulk requirements.

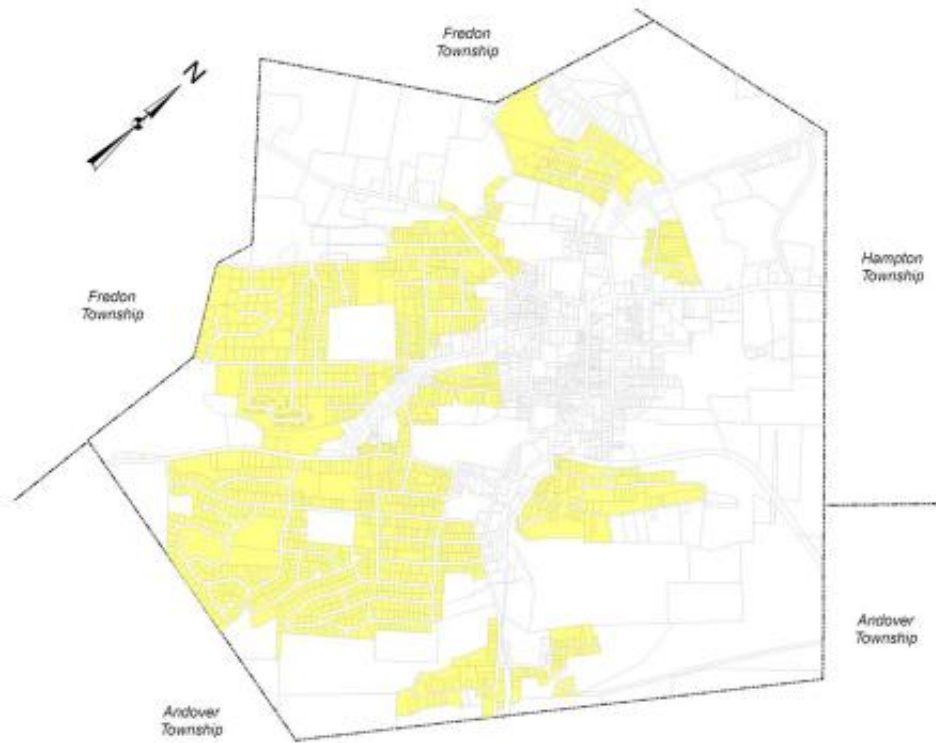
| Base Residential Density | By right | 1 unit/1.0 ac. average |
|--------------------------------------|------------|------------------------|
| Civic Spaces (§ 320-26C) | Park | Permitted |
| | Green | Not permitted |
| | Square | Not permitted |
| | Plaza | Not permitted |
| | Playground | Permitted |

| | | |
|--|---------------------------|--|
| Lot Occupation | Lot width | 75 feet (1.0 acre lot) 50 feet (clustering) |
| | Lot coverage | Not applicable |
| Setbacks — Principal Building | Front setback (principal) | 40 feet minimum |
| | Front setback (secondary) | 40 feet minimum |
| | Side setback | 20 feet minimum |
| | Rear setback | 20 feet minimum |
| | Frontage build-out | Not applicable |
| Setbacks — Accessory Building | Front setback | 20 feet minimum + principal bldg. setback |
| | Side setback | 10 feet minimum |
| | Rear setback | 10 feet minimum |
| Building Disposition (\$ 320-26B) | Edgeward | Permitted |
| | Sideward | Not permitted |
| | Reward | Not permitted |
| | Courtyard | Not permitted |
| Private Frontages (\$ 320-26A) | Common yard | Permitted |
| | Porch and fence | Permitted |
| | Terrace or dooryard | Permitted |
| | Forecourt | Not permitted |
| | Stoop | Not permitted |

Building Configuration

| | |
|----------------------|---------------------------|
| Shopfront and awning | Not permitted |
| Gallery | Not permitted |
| Arcade | Not permitted |
| Principal building | 2 stories/35 feet maximum |
| Outbuilding | 2 stories/25 feet maximum |

§ 320-7. T-3 Neighborhood Residential Zone.



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



- (1) Parking shall be located at the second and third lot layers, except where the shape or size of the lot do not permit access to parking in the second and third lot layers as required in § **320-7C**. In that case, parking may be permitted in the first lot layer at the discretion of the Planning Board.
- (2) The public frontage shall include native trees of various species, naturallistically clustered, as well as understory.
- (3) Allowed building types: single-family residential, duplex.

B. T-3 bulk requirements.

| | | |
|---|--------------------|---------------------------------------|
| Base Residential Density | By right | 4.84 units/acre (9,000 s.f. lot min.) |
| Building Configuration | Principal building | 2 stories/35 feet maximum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 72 feet minimum |
| | Lot coverage | 60% max. |
| Building Disposition (§ 320-26B) | Edgeyard | Permitted |
| | Sideyard | Not permitted |
| | Rearyard | Not permitted |

| | | |
|---|--|---|
| | Courtyard | Not permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 35 feet minimum |
| | Front yard secondary (g.2) ¹ for corner lot | 35 feet minimum |
| | Side yard (g.3) ¹ | 12 feet minimum |
| | Rear yard (g.4) ¹ | 30 feet minimum |
| | Frontage build-out | 40% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + principal bldg. setback |
| | Side yard (h.2) ¹ | 7 feet minimum |
| | Rear yard (h.3) ¹ | 7 feet minimum |
| Private Frontages (\$ 320-26A) | Common lawn | Permitted |
| | Porch and fence | Permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Stoop | Permitted |
| | Shopfront and awning | Not permitted |
| | Gallery | Not permitted |
| | Arcade | Not permitted |
| | Park | Permitted |
| | Green | Permitted |

Civic Spaces
(§ 320-26C)

| | |
|------------|---------------|
| Square | Permitted |
| Plaza | Not permitted |
| Playground | Permitted |

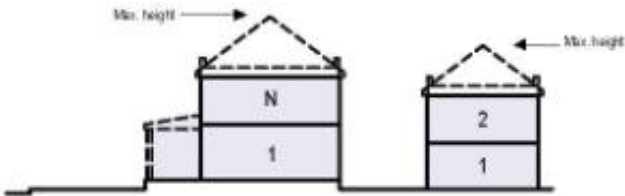
NOTES:

¹ See § 320-7C.

C. T-3 building configuration and height.

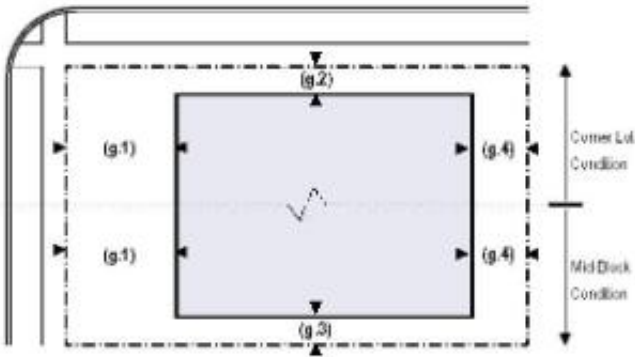
BUILDING CONFIGURATION

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



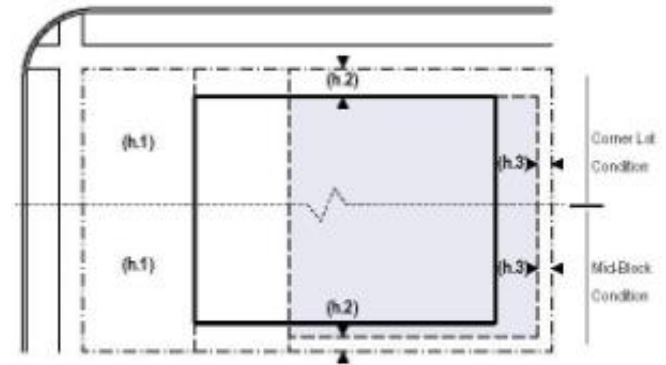
SETBACKS — PRINCIPAL BLDG

- 1. The facades and elevations of principal buildings shall be distanced from the lot lines as shown.
- 2. Facades shall be built along the principal frontage to the minimum specified width in the table.



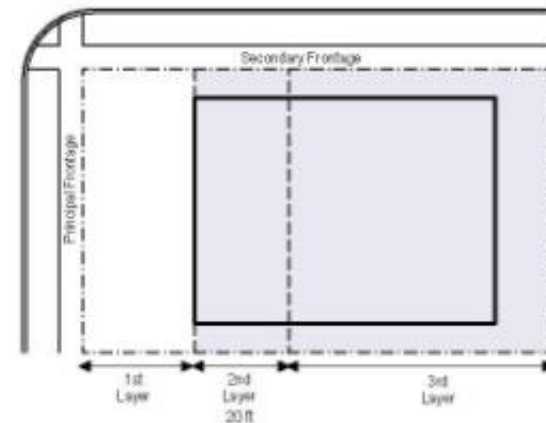
SETBACKS — OUTBUILDINGS

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



PARKING PLACEMENT

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



§ 320-8. T-4 Neighborhood Services Zone.

| | | |
|---|--|--|
| Building Configuration | Principal building | 4 stories/50 feet maximum; 2 min. |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 18 feet minimum |
| | Lot coverage | 70% maximum |
| Building Disposition (§ 320-26B) | Edgeyard | Permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Not permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 6 feet minimum, 18 feet maximum |
| | Front yard secondary (g.2) ¹ for corner lot | 6 feet minimum, 18 feet maximum |
| | Side yard (g.3) ¹ | 0 foot minimum |
| | Rear yard (g.4) ¹ | 3 feet minimum |
| | Frontage build-out | 60% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + principal bldg. setback |
| | Side yard (h.2) ¹ | 5 feet minimum or 10 feet for a corner lot |
| | Rear yard (h.3) ¹ | 5 feet minimum |
| | Common lawn | Not permitted |
| | Porch and fence | Permitted |
| | Terrace | Permitted |

**Private Frontages
(\$ 320-26A)**

| | |
|----------------------|---------------|
| Forecourt | Permitted |
| Shopfront and awning | Permitted |
| Gallery | Permitted |
| Arcade | Not permitted |

**Civic Spaces
(\$ 320-26C)**

| | |
|------------|---------------|
| Park | Not permitted |
| Green | Permitted |
| Square | Permitted |
| Plaza | Permitted |
| Playground | Permitted |

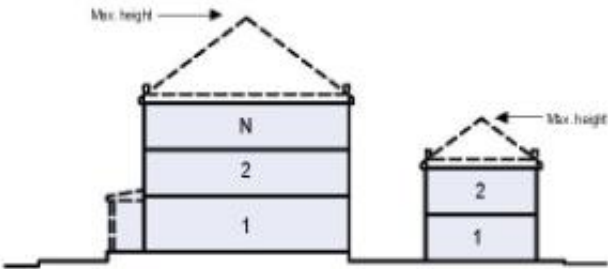
NOTES:

¹ See § 320-8C.

C. T-4 building configuration and height.

BUILDING CONFIGURATION

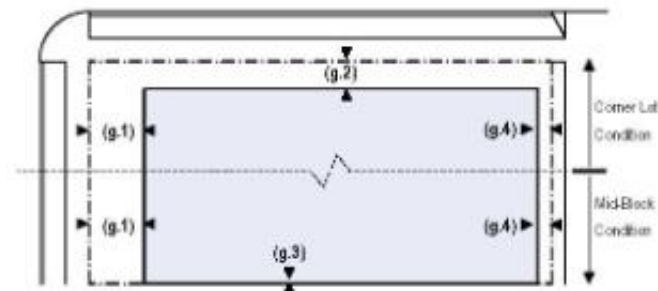
1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first-floor commercial function which must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



SETBACKS — PRINCIPAL BLDG

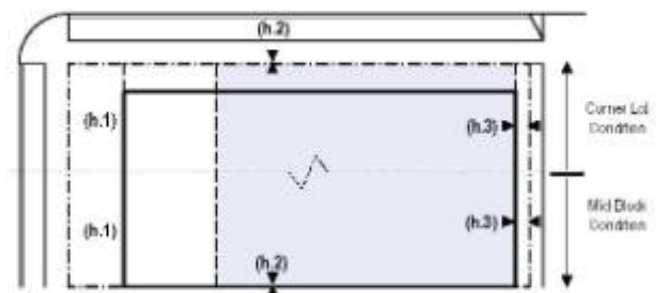
1. The facades and elevations of principal buildings shall be distanced from the lot lines as shown.
2. Facades shall be built along the principal frontage to the minimum

specified width in the table.



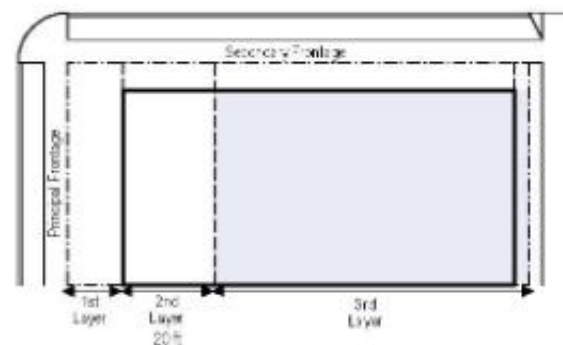
SETBACKS — OUTBUILDINGS

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



PARKING PLACEMENT

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



§ 320-9. T-5 Neighborhood Core Zone.



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



(1) The public frontage shall include street trees and landscaping along building frontages. Street furniture should be

incorporated into street frontages for commercial and mixed-use buildings.

- (2) Allowed building types: single-family residential, townhouse, duplexes, triplexes, live/work, mixed-use, elevator flats, office, retail, hotels, civic, parking garage with liner building.

B. T-5 Bulk requirements. **[Amended 6-25-2012 by Ord. No. 2012-17]**

| | | |
|--|--|---|
| Building Configuration | Principal building | 5 stories/65 feet maximum; 2 minimum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 20 feet minimum |
| | Lot coverage | 80% max. |
| Building Disposition (\$ 320-26B) | Edgeyard | Not permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 2 feet minimum, 12 feet maximum |
| | Front yard secondary (g.2) ¹ for corner lot | 2 feet minimum, 12 feet maximum |
| | Side yard (g.3) ¹ | 0 feet minimum, 24 feet maximum |
| | Rear yard (g.4) ¹ | 3 feet minimum |
| | Frontage build-out | 80% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 40 feet maximum from rear prop. |
| | Side yard (h.2) ¹ | 3 feet minimum or 5 feet for a corner lot |

| | | |
|---|------------------------------|----------------|
| Private Frontages (\$ 320-26A) | Rear yard (h.3) ¹ | 3 feet maximum |
| | Common lawn | Not permitted |
| | Porch and fence | Permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| Civic Spaces (\$ 320-26C) | Park | Not permitted |
| | Green | Not permitted |
| | Square | Not permitted |
| | Plaza | Permitted |
| | Playground | Permitted |

NOTES:

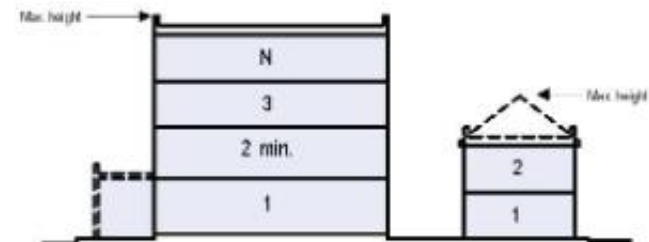
¹ See § 320-9C.

C. T-5 building configuration and height.

BUILDING CONFIGURATION

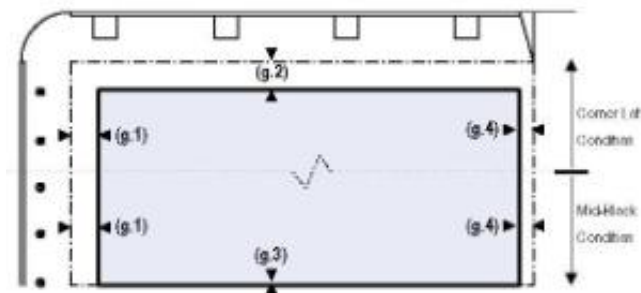
1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation of the roof surface.
2. Stories may not exceed 14 feet in height from finished floor to

finished ceiling, except for a first-floor commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



SETBACKS — PRINCIPAL BLDG

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



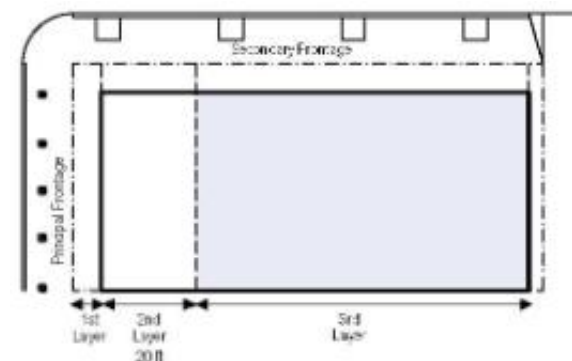
SETBACKS — OUTBUILDINGS

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

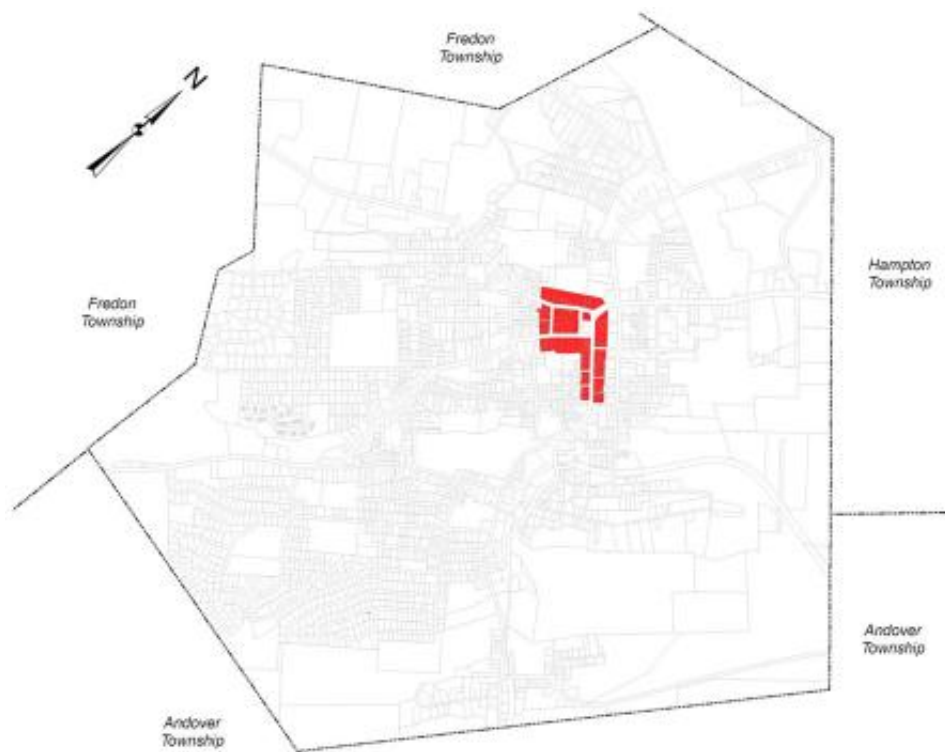


PARKING PLACEMENT

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



§ 320-10. T-6 Town Core Zone.



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



- (1) The public frontage shall include street trees, streetscaping and street furniture.
- (2) Allowed building types: townhouse, live/work, mixed-use, elevator flats, office, retail, hotels, civic, parking structure with liner building.

B. T-6 bulk requirements.

| | | |
|---|--|---------------------------------------|
| Building Configuration | Principal building | 8 stories/100 feet maximum; 2 minimum |
| | Accessory building | N/A |
| Lot Occupation | Lot width | 18 feet minimum, 700 feet maximum |
| | Lot coverage | 90% maximum |
| Building Disposition (§ 320-26B) | Edgeyard | Not permitted |
| | Sideyard | Not permitted |
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| | Front yard primary (g.1) ¹ | 2 feet minimum, 12 feet maximum |
| | Front yard secondary (g.2) ¹ for corner lot | 2 feet minimum, 12 feet maximum |

| | | |
|---|------------------------------|---------------------------------|
| Principal Building Setbacks | Side yard (g.3) ¹ | 0 feet minimum, 24 feet maximum |
| | Rear yard (g.4) ¹ | 0 foot minimum |
| | Frontage build-out | 80% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | N/A |
| | Side yard (h.2) ¹ | N/A |
| | Rear yard (h.3) ¹ | N/A |
| | Common lawn | Not permitted |
| Private Frontages (\$ 320-26A) | Porch and fence | Not permitted |
| | Terrace | Not permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| | Park | Not permitted |
| Civic Spaces (\$ 320-26C) | Green | Not permitted |
| | Square | Permitted |
| | Plaza | Permitted |
| | Playground | Permitted |

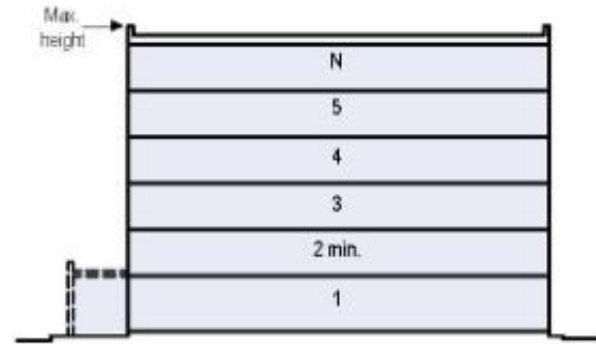
NOTES:

¹ See § 320-10C.

C. T-6 building configuration and height.

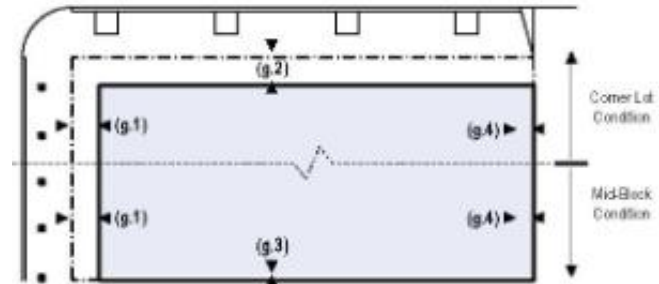
BUILDING CONFIGURATION

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



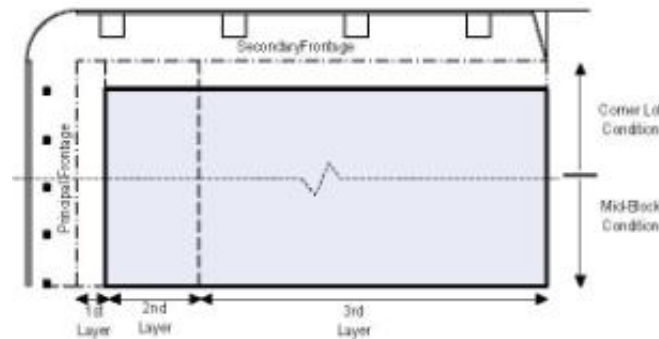
SETBACKS — PRINCIPAL BLDG

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

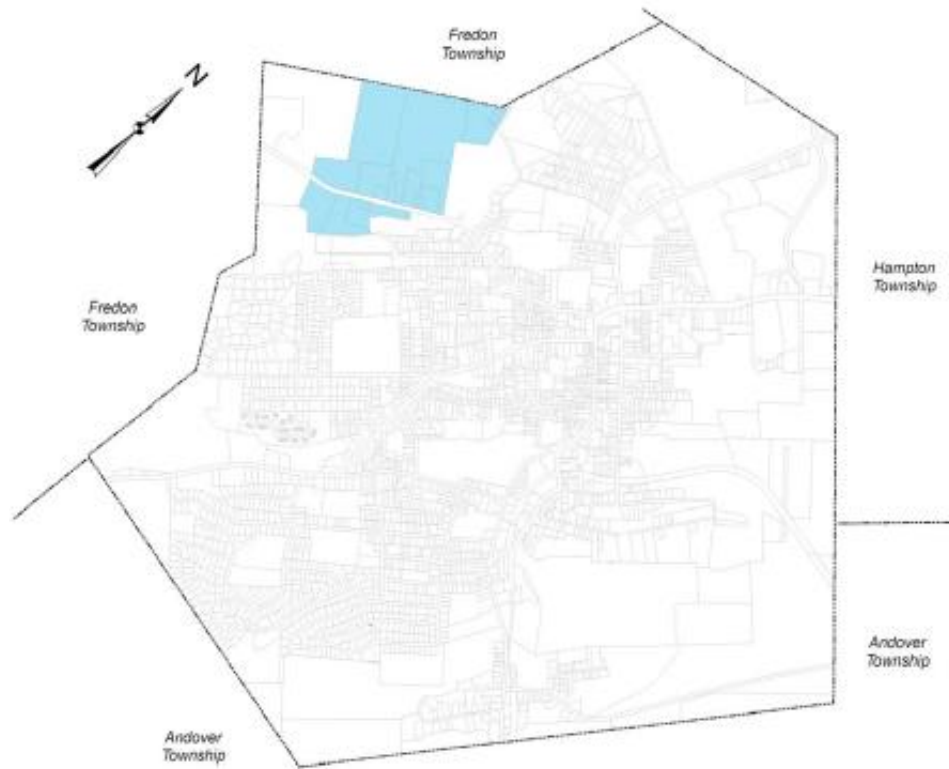


PARKING PLACEMENT

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



§ 320-11. Special District 1 — Hospital Zone.



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

- (1) Civic institutional;
- (2) Historic institutional;
- (3) Parking garage;
- (4) Parking garage with liner building;
- (5) Office;
- (6) Research and development/labs.



B. SD-1 bulk requirements.

| | | |
|--|--|----------------------------|
| Building Configuration | Principal building | 5 stories/65 feet maximum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 90 feet minimum |
| | Lot coverage | 50% maximum |
| Building Disposition (§ 320-26B) | Edgeyard | Not permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 40 feet minimum |
| | Front yard secondary (g.2) ¹ for corner lot | 40 feet minimum |
| | Side yard (g.3) ¹ | 20 feet one side, 35 total |

| | | |
|---|------------------------------|-----------------|
| Accessory Building Setbacks | Rear yard (g.4) ¹ | 50 feet minimum |
| | Frontage build-out | Not applicable |
| | Front (h.1) ¹ | 40 feet minimum |
| | Side yard (h.2) ¹ | 10 feet minimum |
| | Rear yard (h.3) ¹ | 30 feet minimum |
| Private Frontages (\$ 320-26A) | Common lawn | Not permitted |
| | Porch and fence | Not permitted |
| | Terrace | Not permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| Civic Spaces (\$ 320-26C) | Park | Permitted |
| | Green | Permitted |
| | Square | Permitted |
| | Plaza | Permitted |
| | Playground | Permitted |

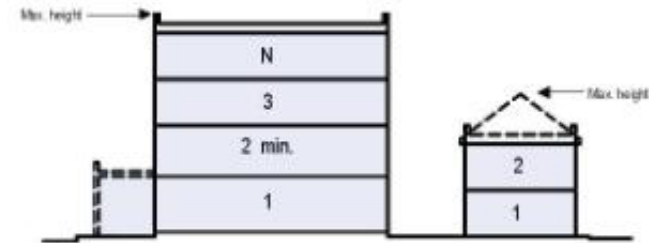
NOTES:

¹ See § **320-11C**.

C. SD-1 building configuration, height and setbacks.

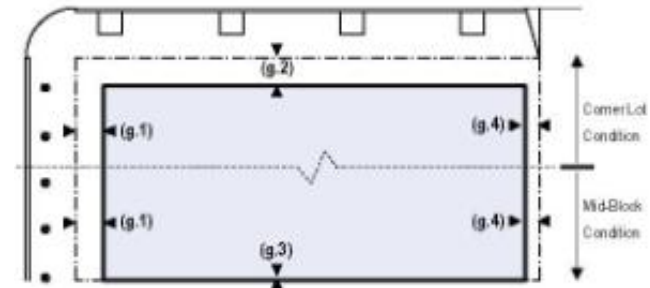
BUILDING CONFIGURATION

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



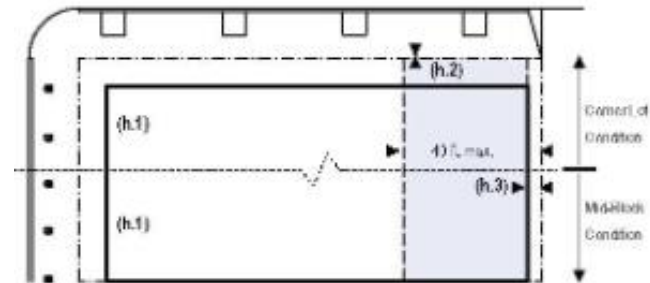
SETBACKS — PRINCIPAL BLDG

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



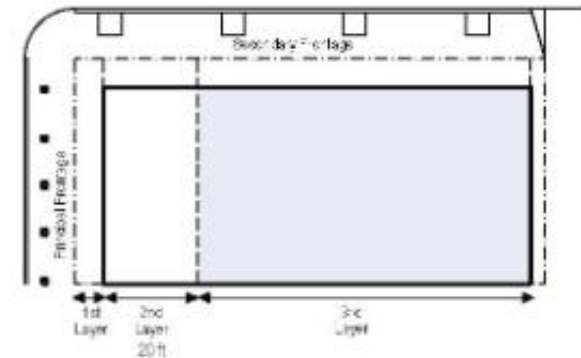
SETBACKS — OUTBUILDINGS

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

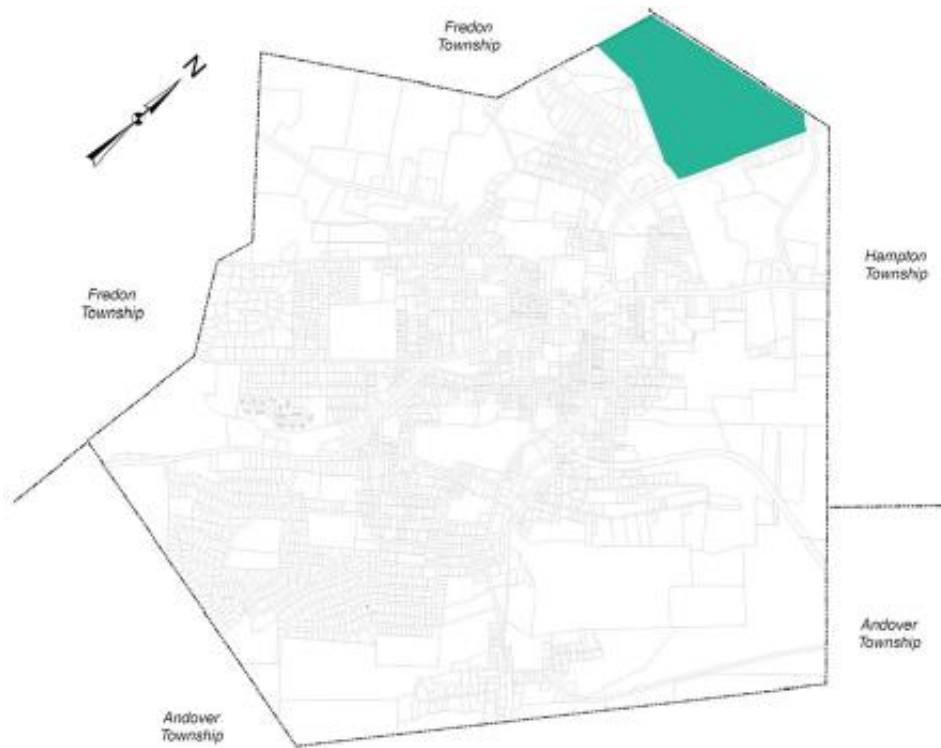


PARKING PLACEMENT

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



§ 320-12. Special District 2 — College Zone.



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

- (1) Civic institutional;
- (2) Historic institutional;

- (3) Offices;
- (4) Multifamily residential;
- (5) Elevator flats;
- (6) Parking garage; and
- (7) Parking garage with liner building.



B. SD-2 bulk requirements.

| | | |
|--|--------------------|---------------------------|
| Building Configuration | Principal building | 4 stories/50 feet maximum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 50 feet minimum |
| | Lot coverage | 60% maximum |
| Building Disposition (\$ 320-26B) | Edgeyard | Permitted |
| | Sideyard | Permitted |

| | | |
|--|--|---|
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 40 feet minimum |
| | Front yard secondary (g.2) ¹ for corner lot | 40 feet minimum |
| | Side yard (g.3) ¹ | 20 feet minimum |
| | Rear yard (g.4) ¹ | 20 feet minimum |
| | Frontage build-out | Not applicable |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + principal bldg. setback |
| | Side yard (h.2) ¹ | 10 feet minimum |
| | Rear yard (h.3) ¹ | 10 feet minimum |
| Private Frontages (§ 320-26A) | Common lawn | Not permitted |
| | Porch and fence | Not permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| | Park | Permitted |
| | Green | Permitted |

Civic Spaces
 (§ 320-26C)

| | |
|------------|-----------|
| Square | Permitted |
| Plaza | Permitted |
| Playground | Permitted |

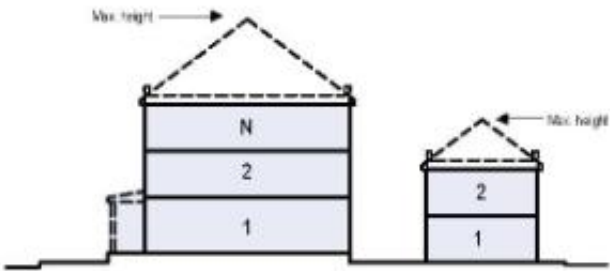
NOTES:

¹ See § 320-12C.

C. SD-2 building configuration, height and setbacks.

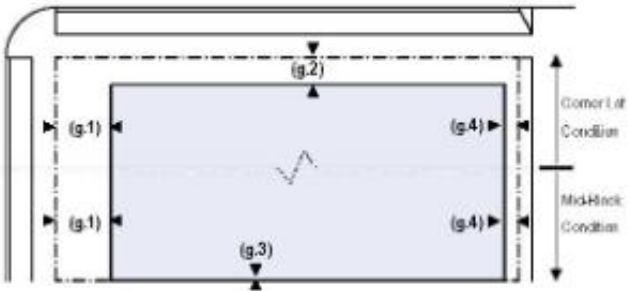
BUILDING CONFIGURATION

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



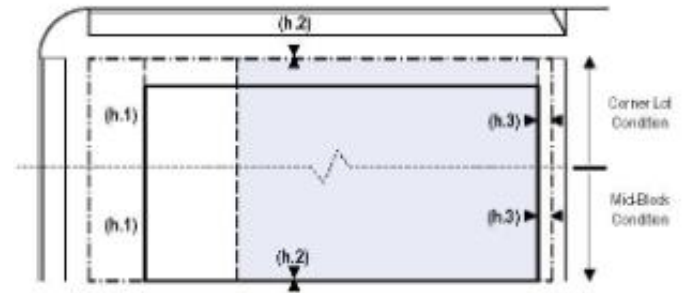
SETBACKS — PRINCIPAL BLDG

- 1. The facades and elevations of principal buildings shall be distanced from the lot lines as shown.
- 2. Facades shall be built along the principal frontage to the minimum specified width in the table.



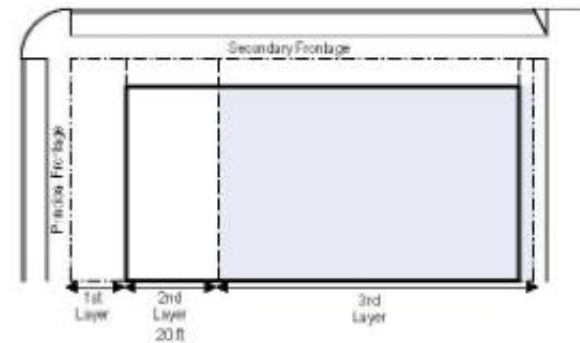
SETBACKS — OUTBUILDINGS

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

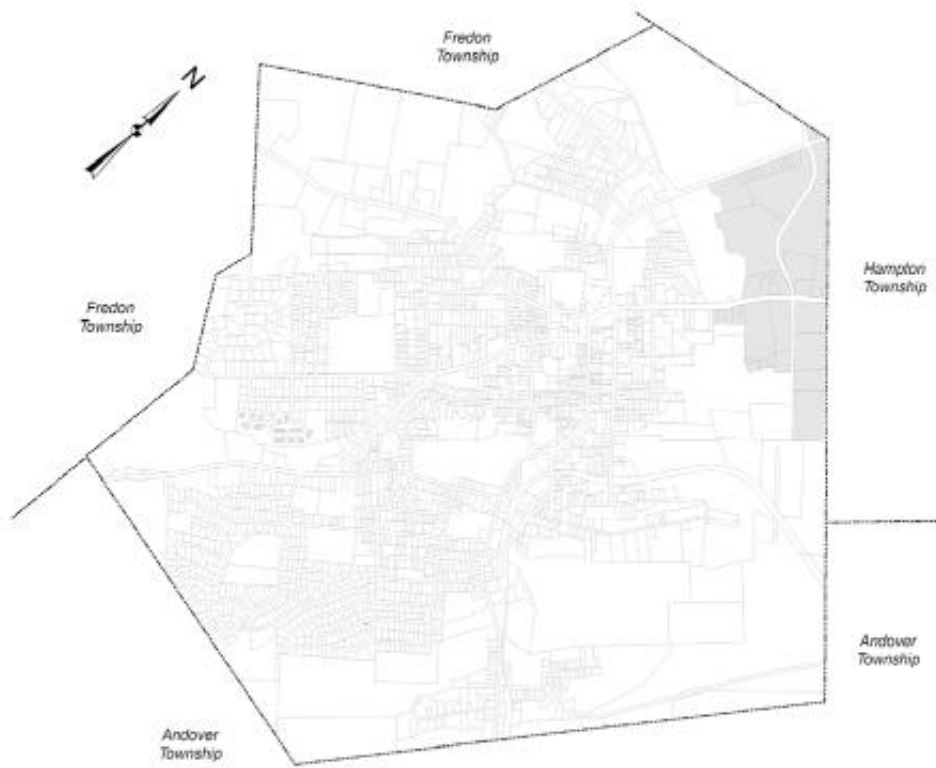


PARKING PLACEMENT

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



§ 320-13. Special District 3 — Retail/Manufacturing Zone.



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

- (1) Research/warehouse;
- (2) Large-scale retail;
- (3) Retail;
- (4) Hotels;
- (5) Live/work;
- (6) Drive-through retail;

- (7) Parking garage; and
- (8) Parking garage with liner building.



B. SD-3 bulk requirements.

| | | |
|--|---------------------------------------|--|
| Building Configuration | Principal building | 4 stories/50 feet maximum; 2 story min. facade |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 50 feet minimum |
| | Lot coverage | 70% maximum |
| Building Disposition (§ 320-26B) | Edgeward | Permitted |
| | Sideward | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| | Front yard primary (g.1) ¹ | 6 feet minimum, 18 feet maximum |

| | | |
|---|--|-------------------------------------|
| Principal Building Setbacks | Front yard secondary (g.2) ¹ for corner lot | 6 feet minimum, 18 feet maximum |
| | Side yard (g.3) ¹ | 10 feet minimum |
| | Rear yard (g.4) ¹ | 3 feet minimum |
| | Frontage build-out | 50% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + bldg. setback |
| | Side yard (h.2) ¹ | 5 feet minimum or 10 feet at corner |
| | Rear yard (h.3) ¹ | 5 feet minimum |
| Private Frontages (\$ 320-26A) | Common lawn | N/A |
| | Porch and fence | N/A |
| | Terrace | N/A |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| Civic Spaces (\$ 320-26C) | Park | Permitted |
| | Green | Permitted |
| | Square | Permitted |
| | Plaza | Permitted |

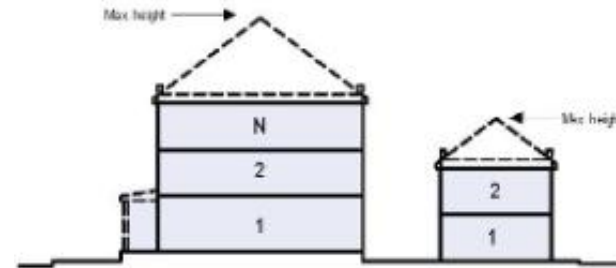
NOTES:

¹ See § **320-13C**.

C. SD-3 building configuration, height and setbacks.

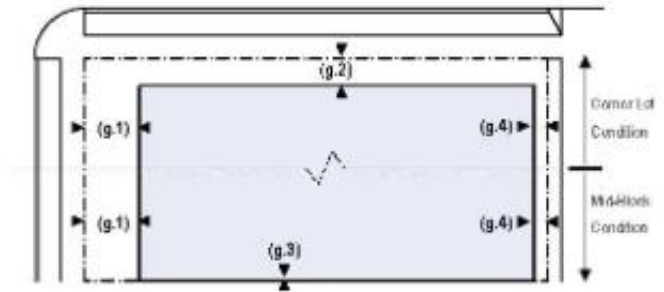
BUILDING CONFIGURATION

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



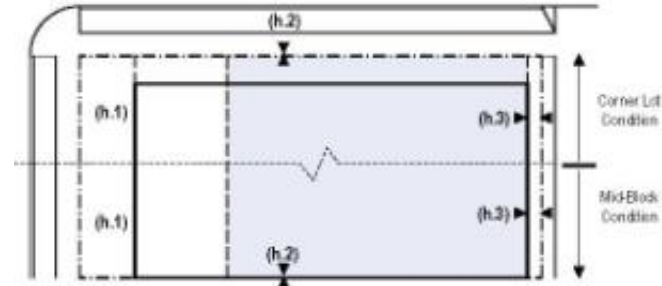
SETBACKS — PRINCIPAL BLDG

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



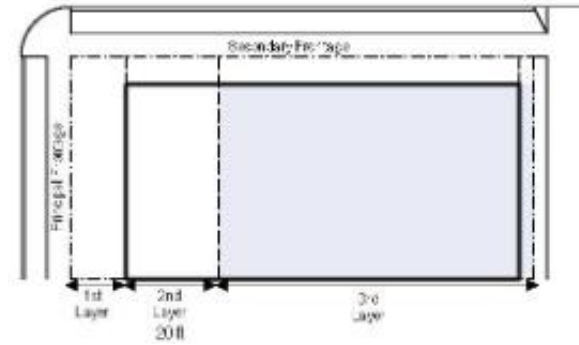
SETBACKS — OUTBUILDINGS

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

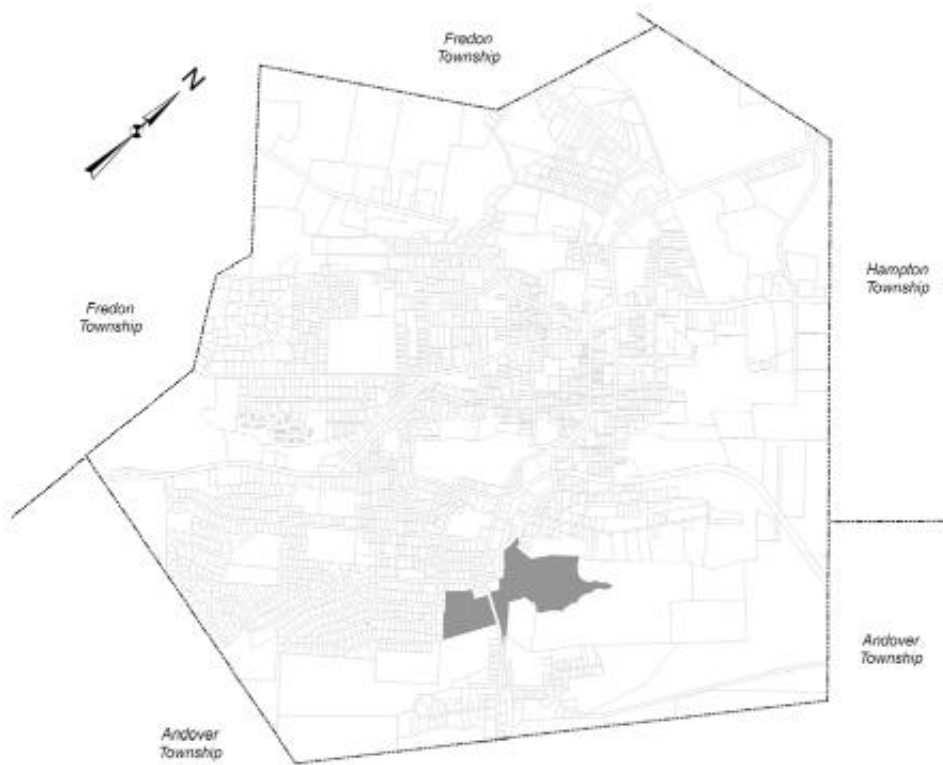


PARKING PLACEMENT

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



§ 320-14. Special District 4 — Industrial/Manufacturing Zone.



A. SD-4 purpose. Special District 4: Industrial/Manufacturing Zone covers the existing industrial site and adjacent lands along and across from Sparta Avenue. This area includes an existing manufacturing facility and has potential for additional manufacturing and light industrial development to provide industries and employment within the Town. Where proposed development abuts residential areas, year-round buffers should be provided. The following building types are permitted in the District:

- (1) Light industrial;
- (2) Food production; and
- (3) Industrial (northeast of Sparta Avenue only).



B. SD-4 bulk requirements.

| | | |
|---|--|-----------------------------------|
| Building Configuration | Principal building | 4 stories/50 feet maximum; 2 min. |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 50 feet minimum |
| | Lot coverage | 70% maximum |
| Building Disposition (§ 320-26B) | Edgeyard | Permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Not permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 30 feet minimum |
| | Front yard secondary (g.2) ¹ for corner lot | 30 feet minimum |
| | Side yard (g.3) ¹ | 30 feet minimum |

| | | |
|--|------------------------------|---------------------------------|
| | Rear yard (g.4) ¹ | 30 feet minimum |
| | Frontage build-out | Not applicable |
| | Front (h.1) ¹ | 20 feet minimum + bldg. setback |
| Accessory Building Setbacks | Side yard (h.2) ¹ | 20 feet minimum |
| | Rear yard (h.3) ¹ | 20 feet minimum |
| | Common lawn | N/A |
| Private Frontages (§ 320-26A) | Porch and fence | N/A |
| | Terrace | N/A |
| | Forecourt | N/A |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| | Park | Permitted |
| Civic Spaces (§ 320-26C) | Green | Permitted |
| | Square | Permitted |
| | Plaza | Permitted |
| | Playground | Permitted |
| | | |

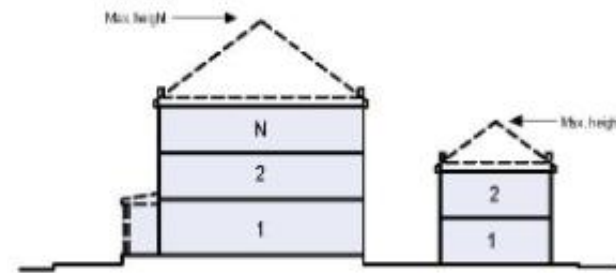
NOTES:

¹ See § 320-14C.

C. SD-4 building configuration, height and setbacks.

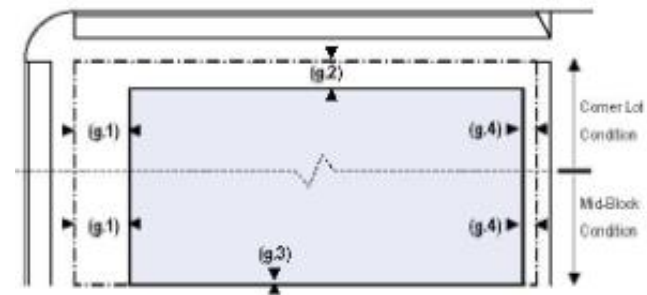
BUILDING CONFIGURATION

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



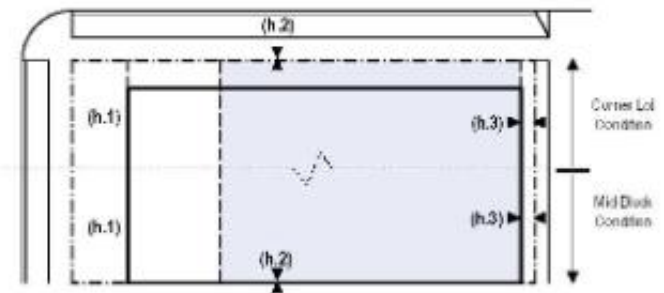
SETBACKS — PRINCIPAL BLDG

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



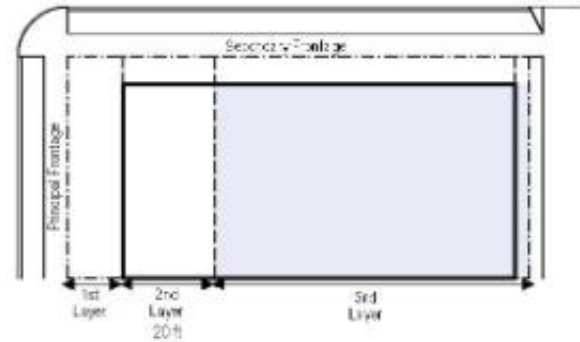
SETBACKS — OUTBUILDINGS

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

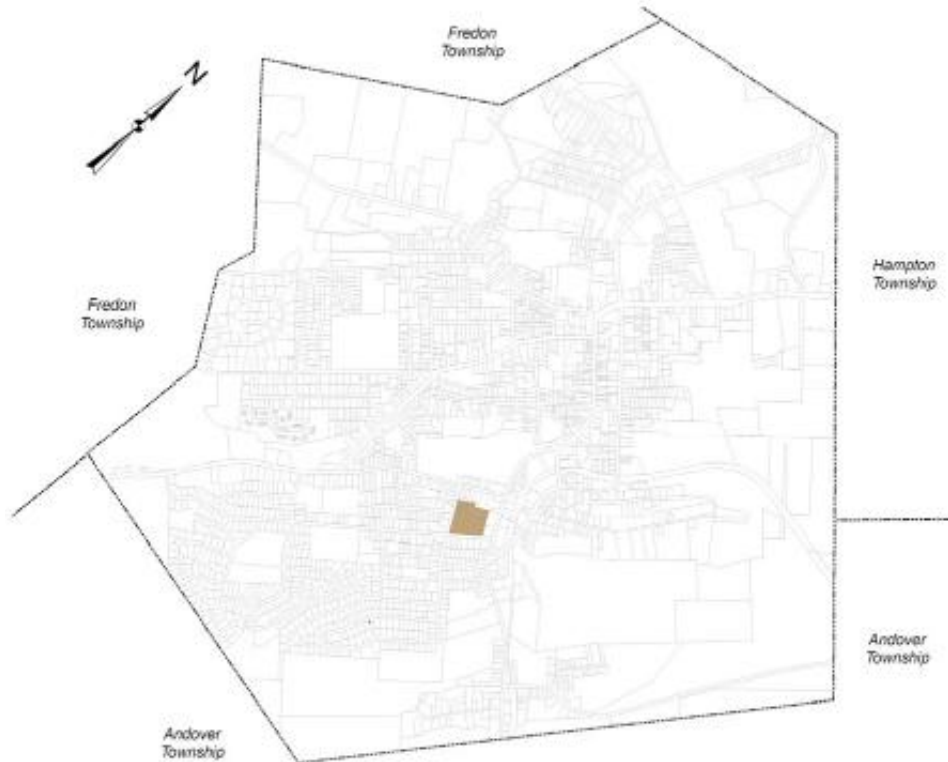


PARKING PLACEMENT

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



§ 320-15. Special District 5 — Office/Manufacturing Zone.



A. SD-5 purpose. Special District 5: Office/Manufacturing Zone covers the Sparta Avenue redevelopment area; where office and manufacturing uses make up the headquarters for Thor Labs. The uses are governed by the redevelopment plan for

the area. The following building types are permitted in the District:

- (1) Offices;
- (2) Research/warehouse;
- (3) Mixed-use buildings;
- (4) Parking garage; and
- (5) Parking garage with liner building.



B. SD-5 bulk requirements.

| | | |
|------------------------|--------------------|--------------------------------------|
| Building Configuration | Principal building | 5 stories/65 feet maximum; 2 minimum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | Not applicable |
| | Lot coverage | 67% maximum |
| | Edgeyard | Not permitted |

| | | |
|---|--|-----------------|
| Building Disposition (§ 320-26B) | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Not permitted |
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 40 feet minimum |
| | Front yard secondary (g.2) ¹ for corner lot | 40 feet minimum |
| | Side yard (g.3) ¹ | 10 feet minimum |
| | Rear yard (g.4) ¹ | 10 feet minimum |
| | Frontage build-out | Not applicable |
| | | |
| Accessory Building Setbacks | Front (h.1) ¹ | 40 feet minimum |
| | Side yard (h.2) ¹ | 10 feet minimum |
| | Rear yard (h.3) ¹ | 10 feet minimum |
| Private Frontages (§ 320-26A) | Common lawn | Not permitted |
| | Porch and fence | Not permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |
| | | |

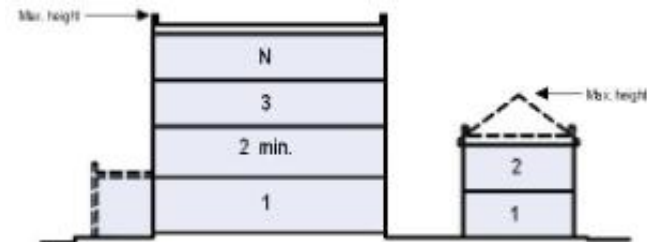
NOTES:

¹ See § 320-15C.

C. SD-5 building configuration, height and setbacks.

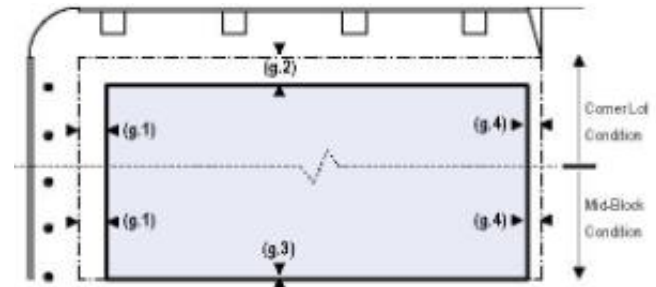
BUILDING CONFIGURATION

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



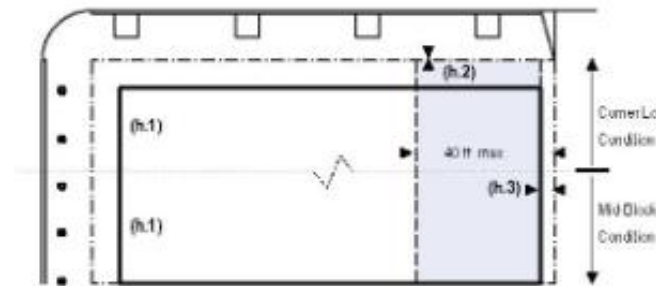
SETBACKS — PRINCIPAL BLDG

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



SETBACKS — OUTBUILDINGS

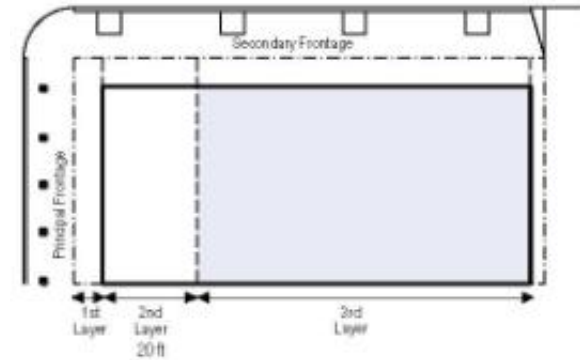
1. The elevation of the outbuilding shall be distanced from the lot lines as shown.



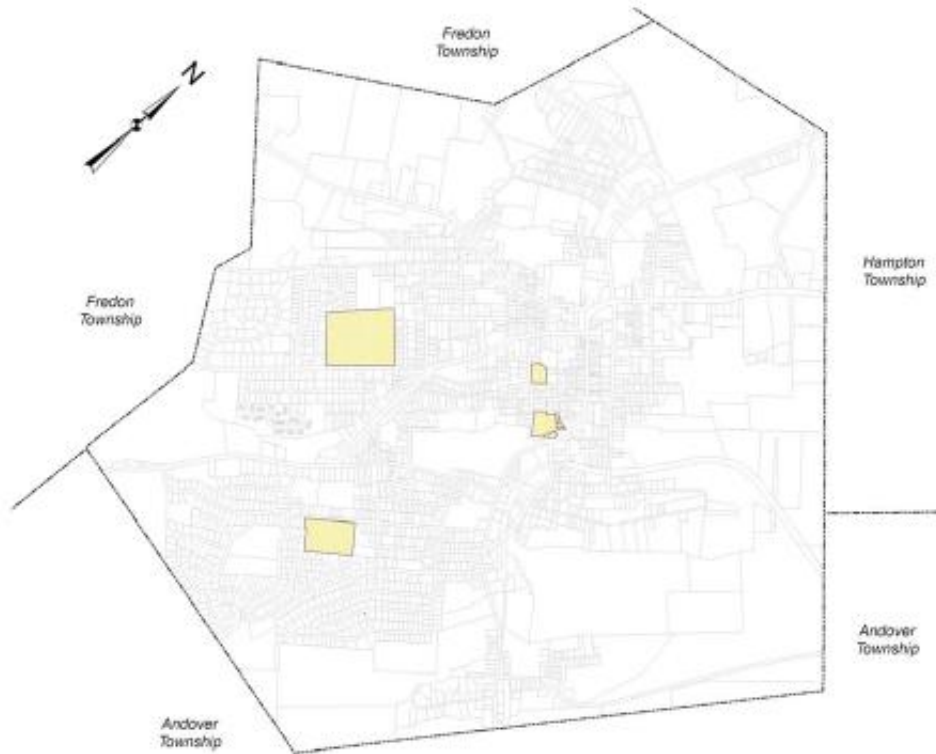
PARKING PLACEMENT

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

3. Trash containers shall be stored within the third layer.



§ 320-16. Special District 6 — School Zone.



A. SD-6 purpose. Special District 6: Schools Zone covers the Newton High School, Halsted Street School, Merriam Avenue Elementary School and St. Joseph Regional School. The following building types are permitted in the District:

- (1) Civic institutional;
- (2) Historic institutional;
- (3) Parking garage; and
- (4) Parking garage with liner building.



B. SD-6 bulk requirements.

| | | |
|--|--------------------|---------------------------|
| Building Configuration | Principal building | 4 stories/50 feet maximum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 18 feet minimum |
| | Lot coverage | 70% maximum |
| Building Disposition (\$ 320-26B) | Edgeyard | Permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Not permitted |

| | | |
|--|--|---|
| Principal Building Setbacks | Front yard primary (g.1) ¹ | 6 feet minimum, 18 feet maximum |
| | Front yard secondary (g.2) ¹ for corner lot | 6 feet minimum, 18 feet maximum |
| | Side yard (g.3) ¹ | 0 feet minimum |
| | Rear yard (g.4) ¹ | 3 feet minimum |
| | Frontage build-out | 60% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + principal bldg. setback |
| | Side yard (h.2) ¹ | 5 feet minimum or 10 feet at corner |
| | Rear yard (h.3) ¹ | 5 feet minimum |
| Private Frontages (§ 320-26A) | Common lawn | Not permitted |
| | Porch and fence | Permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Not permitted |

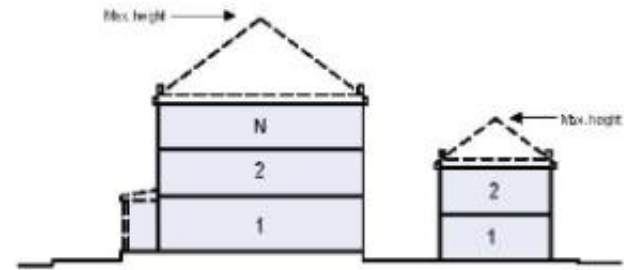
NOTES:

¹ See § **320-16C**.

C. SD-6 building configuration, height and setbacks.

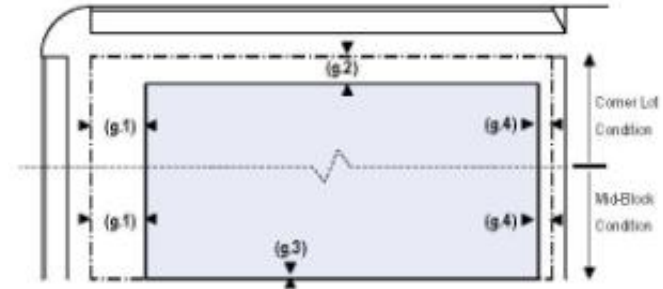
BUILDING CONFIGURATION

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



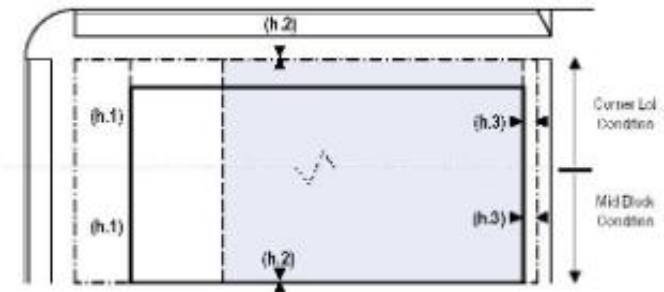
SETBACKS — PRINCIPAL BLDG

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



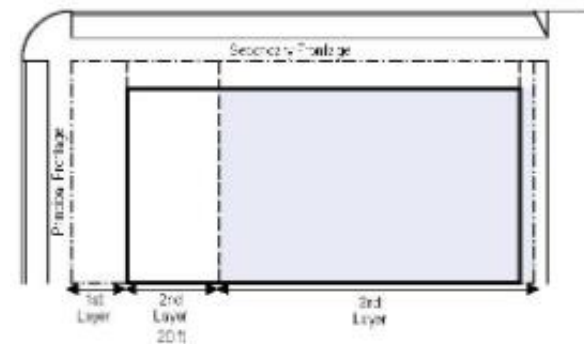
SETBACKS — OUTBUILDINGS

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

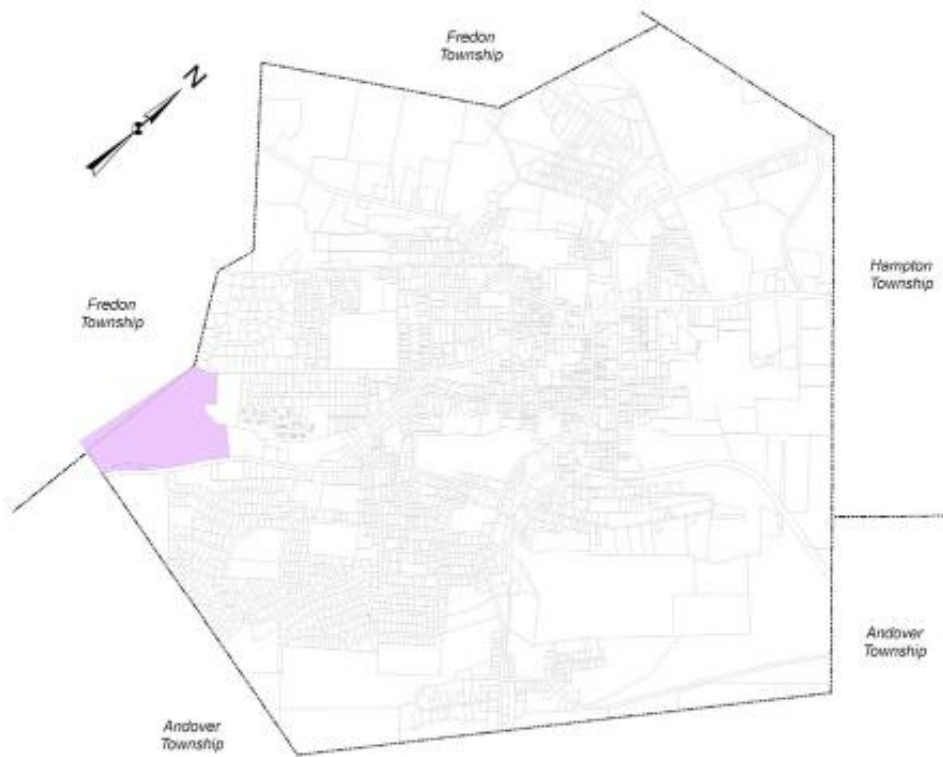


PARKING PLACEMENT

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



§ 320-17. Special District 7 — Senior Community Zone.



A. SD-7 purpose. Special District 7: Senior Community Zone covers the Bristol Glen/United Methodist Homes Continuing Care and Assisted Living Facility. The following building types are permitted in the District:

- (1) Duplex residential;
- (2) Triplex residential;

- (3) Civic institutional;
- (4) Historic institutional;
- (5) Multifamily residential;
- (6) Elevator flats;
- (7) Townhouse,
- (8) Parking garage; and
- (9) Parking garage with liner building.

B. SD-7 bulk requirements.

| | | |
|---|---------------------------------------|--------------------------------------|
| Density | Residential density | 8 du/acres |
| Open space | Required open space | 50% of tract |
| Building Configuration | Principal building | 5 stories/65 feet maximum; 2 minimum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 50 feet minimum |
| | Lot coverage | 50% maximum |
| Building Disposition (§ 320-26B) | Edgeyard | Not permitted |
| | Sideyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Permitted |
| | Front yard primary (g.1) ¹ | 40 feet minimum |
| | | 40 feet minimum |

| | | |
|---|--|------------------------------------|
| Principal Building Setbacks | Front yard secondary (g.2) ¹ for corner lot | |
| | Side yard (g.3) ¹ | 0 feet minimum, 24 feet maximum |
| | Rear yard (g.4) ¹ | 3 feet minimum |
| | Frontage build-out | 80% minimum at setback |
| Accessory Building Setbacks | Front (h.1) ¹ | 40 feet maximum from rear prop. |
| | Side yard (h.2) ¹ | 3 feet minimum or 5 feet at corner |
| | Rear yard (h.3) ¹ | 3 feet maximum |
| Private Frontages (\$ 320-26A) | Common lawn | Not permitted |
| | Porch and fence | Not permitted |
| | Terrace | Permitted |
| | Forecourt | Permitted |
| | Shopfront and awning | Permitted |
| | Gallery | Permitted |
| | Arcade | Permitted |

NOTES:

¹ See § **320-17C**.

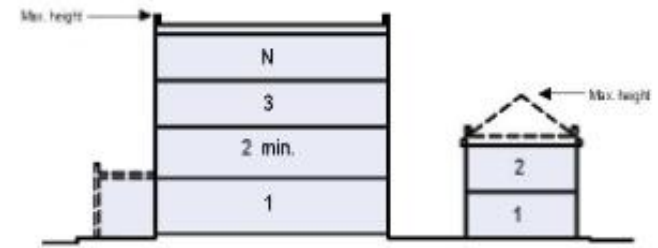
C. SD-7 building configuration, height and setbacks.

BUILDING CONFIGURATION

1. Building height shall be measured from the average elevation of the finished grade along the front of the building to the mean elevation

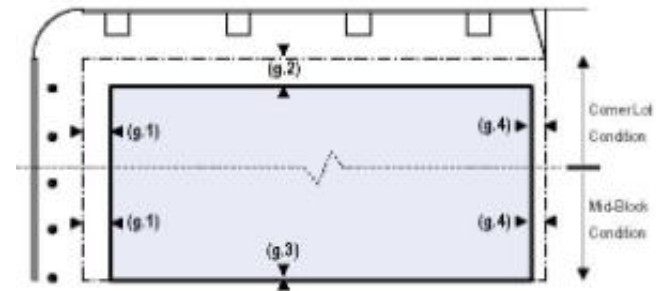
of the roof surface.

2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first-floor commercial function which must be a minimum of 11 feet with a maximum of 24 feet.



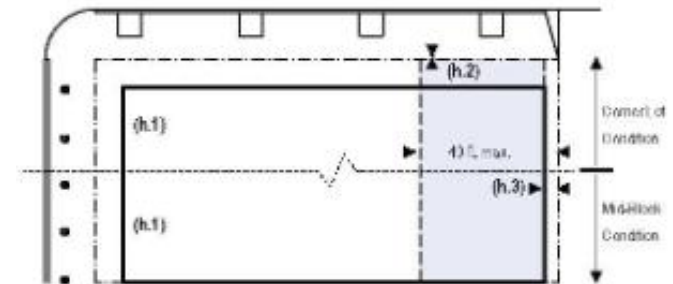
SETBACKS — PRINCIPAL BLDG

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



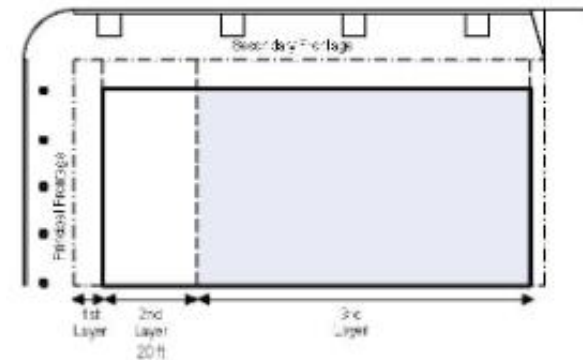
SETBACKS — OUTBUILDINGS

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

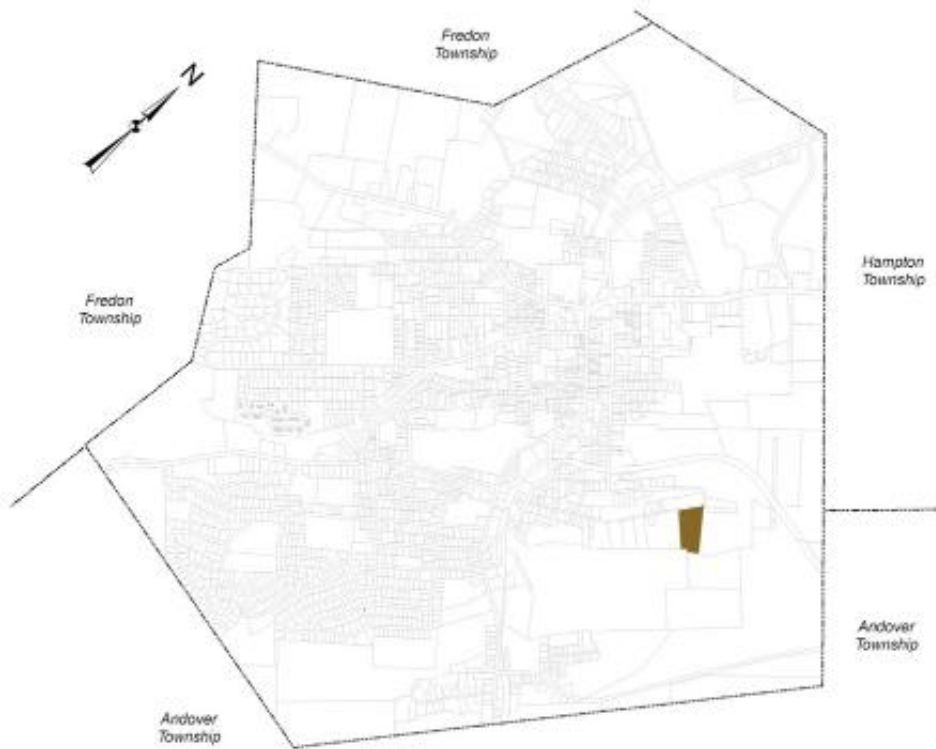


PARKING PLACEMENT

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



§ 320-18. Special District 8 — Utility Zone.

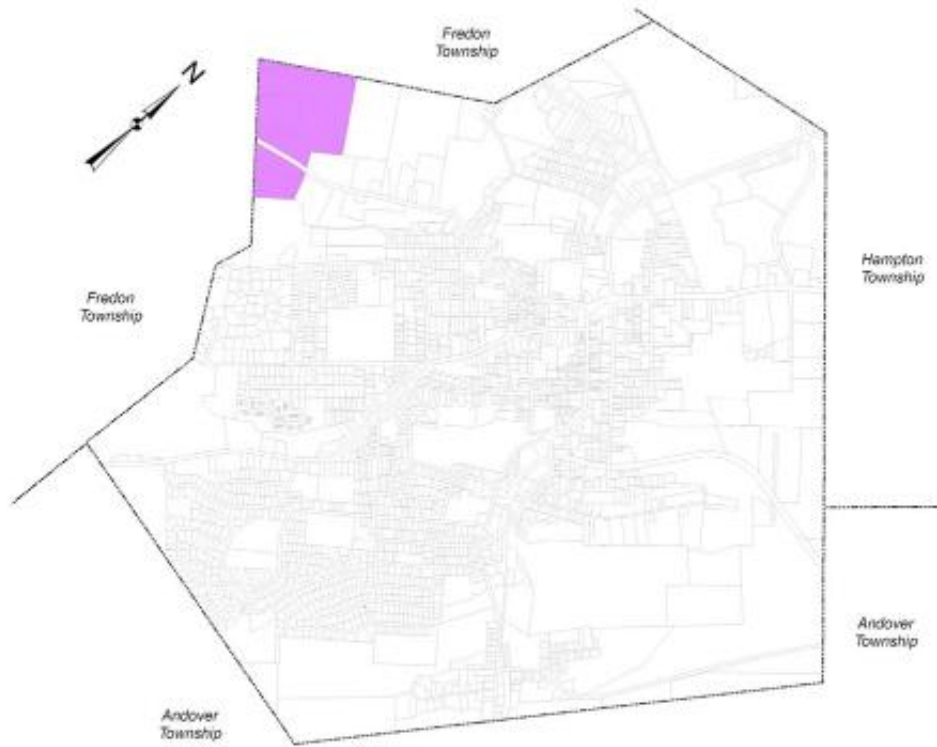


A. SD-8 purpose. Special District 8: Utility Zone covers the Newton Power Substation. The following uses are permitted in the District:

- (1) Power substation.
- (2) Electric utilities.
- (3) Accessory uses to the foregoing.
- (4) Setbacks:
 - (a) Ten foot front yard.
 - (b) Five foot side yard.

(c) Five foot rear yard.

§ 320-19. Special District 9 — Planned Neighborhood Development Zone.



A. SD-9 purpose. Special District 9: Planned Neighborhood Development Zone covers approximately 52 acres along High Street at the western edge of town. Development in this zone includes a mandatory 20% set-aside for affordable housing. Mixed-use is permitted along High Street and adjacent to the Newton Hospital to provide retail and services to the neighborhood. The remainder of the development is permitted to be residential and should vary in density from higher density closer to High Street to lower density further from the road frontage. A minimum of three building types shall be provided for any development. The following building types are permitted in the District:

- (1) Single-family;
- (2) Townhouses;

- (3) Multifamily residential and elevator flats;
- (4) Duplexes;
- (5) Triplexes;
- (6) Mixed-use buildings;
- (7) Live/work; and
- (8) Parking garages and parking garages with liner buildings.

B. SD-9 bulk requirements.

| | | |
|---|------------------------|--------------------------------------|
| Building Configuration | Principal building | 4 stories/50 feet maximum; 2 minimum |
| | Accessory building | 2 stories/25 feet maximum |
| Lot Occupation | Lot width | 20 feet minimum |
| | Lot coverage | 70% maximum |
| Residential Density | 85% of the development | Max. 6 du/acre |
| | 15% of the development | Max. 12 du/acre |
| Affordable Housing Requirement | Minimum set aside | 20% of residential |
| Building Disposition (§ 320-26B) | Edgeyard | Permitted |
| | Sidyard | Permitted |
| | Rearyard | Permitted |
| | Courtyard | Not permitted |

| | | |
|---|---|---|
| Commercial/Mixed-Use Building Setbacks | Front yard primary (g.1) ¹ (NE side lot line along hospital lot should be treated as a front yard) | 10 feet minimum, 30 feet maximum |
| | Front yard secondary (g.2) ¹ for corner lot | 10 feet minimum, 30 feet maximum |
| | Side yard (g.3) ¹ | 20 feet minimum |
| | Rear yard (g.4) ¹ | 50 feet minimum |
| | Frontage build-out | 60% minimum at setback |
| Residential Building Setbacks | Front yard primary | 100 feet minimum |
| | Front yard secondary | 20 feet minimum |
| | Side yard | 20 feet minimum |
| | Rear yard | 50 feet minimum |
| | Frontage build-out | Not applicable |
| Accessory Building Setbacks | Front (h.1) ¹ | 20 feet minimum + principal bldg. setback |
| | Side yard (h.2) ¹ | 5 feet minimum or 10 feet at corner |
| | Rear yard (h.3) ¹ | 5 feet minimum |
| Private Frontages | Common lawn | Permitted |
| | Porch and fence | Permitted |
| | Terrace | Permitted |

(§ 320-26A)

| | |
|----------------------|-----------|
| Forecourt | Permitted |
| Shopfront and awning | Permitted |
| Gallery | Permitted |
| Arcade | Permitted |

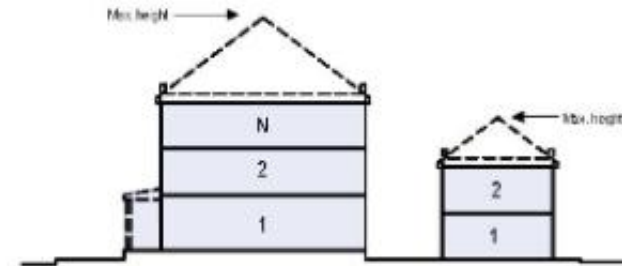
NOTES:

¹ See § 320-19C.

C. SD-9 building configuration, height and setbacks.

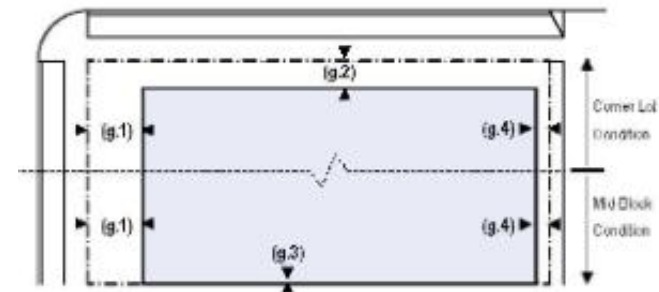
BUILDING CONFIGURATION

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



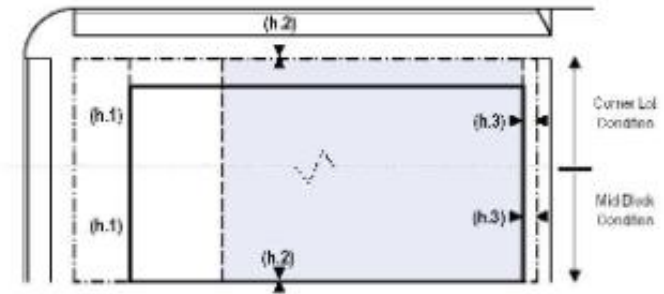
SETBACKS — PRINCIPAL BLDG

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



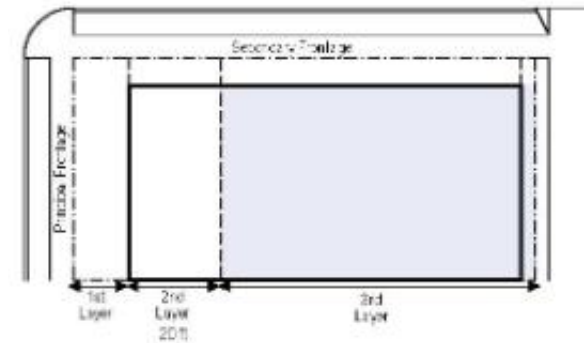
SETBACKS — OUTBUILDINGS

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



PARKING PLACEMENT

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



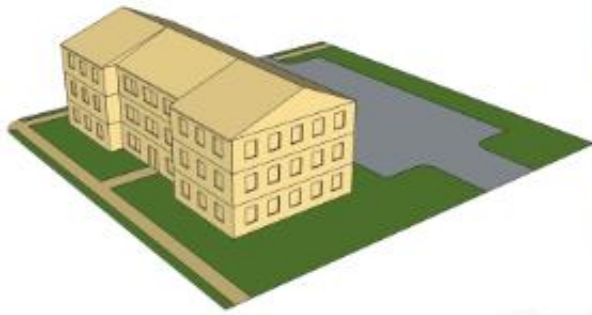
§ 320-20. Building types.

This section provides guidelines for the building types permitted in each transect zone. The building types provide for the function, disposition of the building on the lot in relation to parking and landscaped areas and building form based on general use categories. The photographs and layout for each building type are suggestive of how each building type should be developed. Surrounding character of the neighborhood should be taken into account when determining the design of the building. Parking should be located behind or on the sides of buildings whenever possible. For residential lots where access from the rear is not possible, some options for providing parking in front of the building are shown. Parking to the rear of the building is always favored over parking in the front. Unified design themes for developments are encouraged; however variation of design throughout developments is also encouraged to provide for more visual interest and creation of unique building frontages. All sides of a building with views from parking areas, streets, access points or rights-of-way shall be finished with all architectural design features prominent on main facades. Visual breaks shall be provided on vertical and horizontal planes so as to provide for visual interest. Long buildings shall have breaks in the horizontal plane and vertical breaks are also suggested for buildings over four stories in height. For setbacks, height and lot configuration see the table in the appropriate zone. Frontage types are regulated by transect and full development of the public and semipublic edges of the development are required.

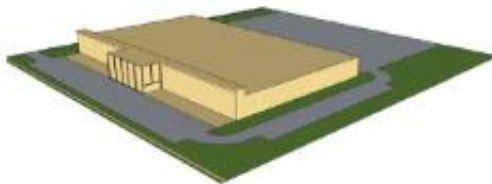
A. Single-family residential.



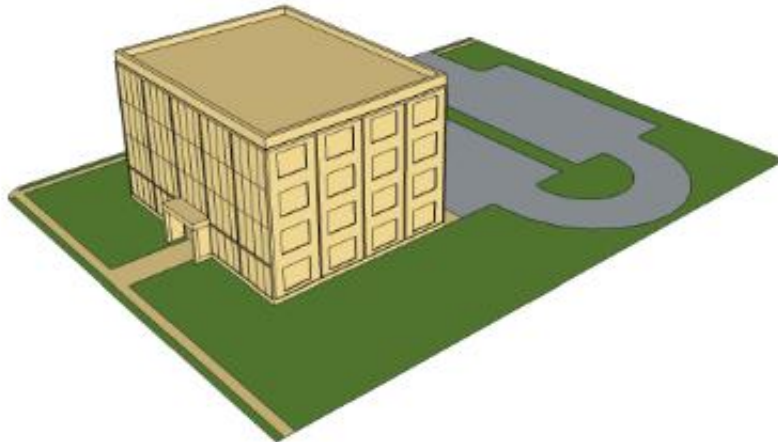
B. Multifamily residential.



C. Large-scale retail store.



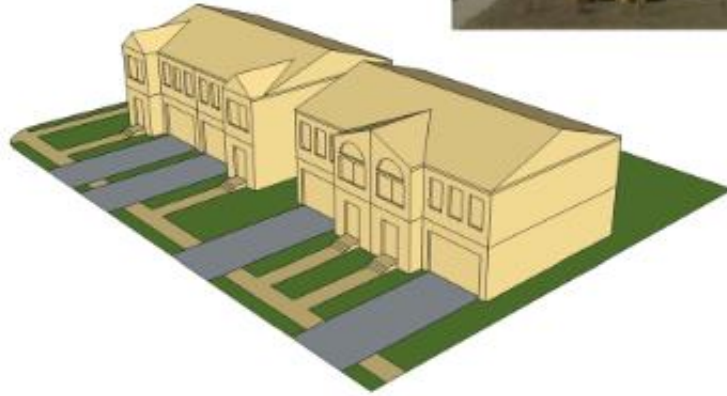
D. Civic/institutional.



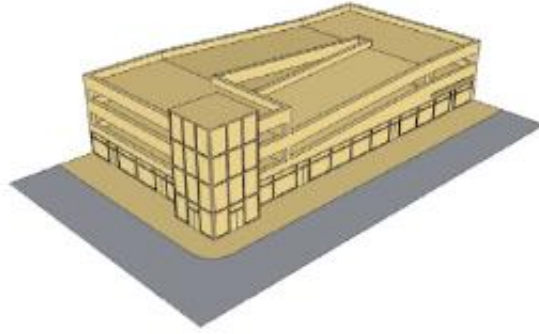
E. Drive-through.



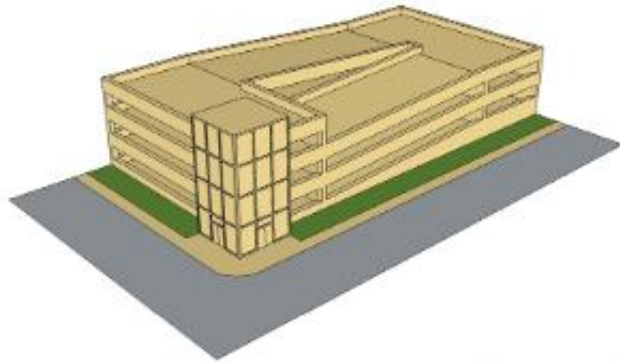
F. Duplex residential.



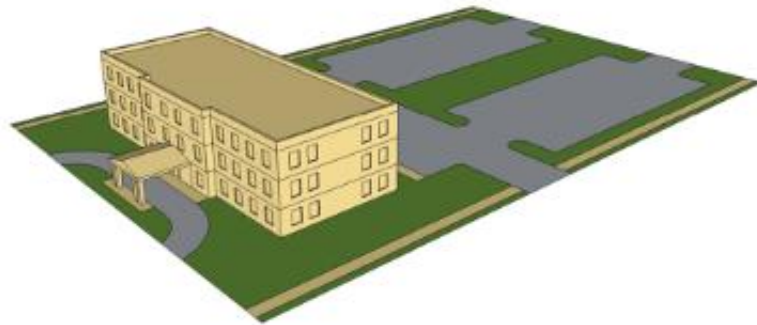
G. Parking garage with liner building.



H. Parking garage.



I. Hotel.



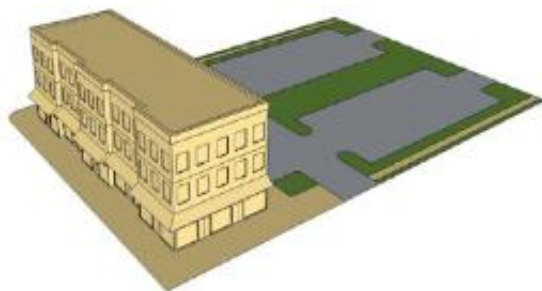
J. Historic institutional.



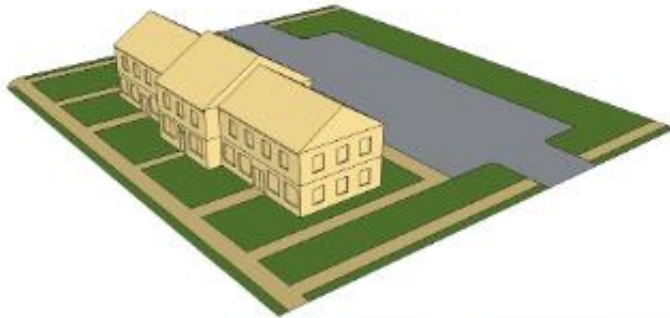
K. Live/work.



L. Mixed-use buildings.



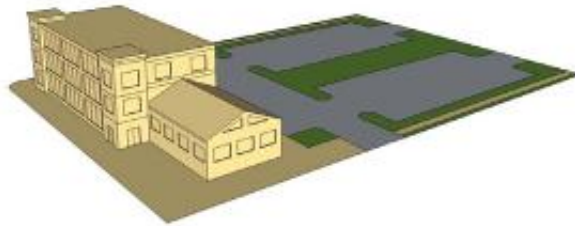
M. Office.



N. Elevator flats.



O. Research/warehouse/industrial.



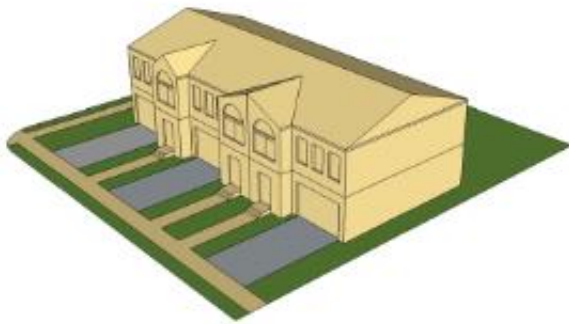
P. Retail/commercial.



Q. Townhouses.



R. Triplex residential.



§ 320-21. General design standards.

A. Scale and style.

- (1) Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local

context, except, however, where existing development does not represent a consistent architectural style or does not incorporate a building design that reflects the historic character and architecture of Newton's Central Business District, buildings should instead be designed to improve the overall streetscape, relying on the design standards set forth herein.

- (2) As a general rule, buildings shall reflect a continuity of treatment obtained by maintaining the building scale, by maintaining consistent front setbacks, by maintaining cornice lines in buildings of the same height, by extending horizontal lines of fenestration, and by echoing architectural styles, details, design themes, building materials, and colors used in surrounding buildings where such buildings represent the historic character and architecture of Newton.
- B. Corner lots. Buildings on corner lots shall be considered significant structures, given that they have at least two front facades visibly exposed to the street. If deemed appropriate by the Planning Board in its design review, such buildings may be designed with architectural embellishments, such as corner towers, steeples, or other features to emphasize their location and serve as a visual focal point for the area.
- C. Walls and planes. Buildings shall avoid long, monotonous uninterrupted walls or roof planes. Offsets including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety, and to relieve the visual effect of a simple, long wall. Similarly, roofline offsets shall be provided, in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
- D. Facades.
- (1) Buildings with more than one facade facing a public street or internal open space shall be required to provide multiple front facade treatments.
 - (2) The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. All sides of a building shall be architecturally designed to be consistent with regard to style, materials, colors, and details. Bland wall or service area treatment of side and/or rear elevations visible from the public view is discouraged.
- E. Roofs. Gable roofs should utilize a minimum pitch of 9/12. Where hipped roofs are used, it is recommended that the minimum pitch be 6/12. Both gable and hipped roofs should provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall. Flat roofs should provide that all visibly exposed walls shall have an articulated cornice which projects horizontally from the vertical building wall plane. Other roof types should be appropriate to the building's architecture. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys, cupolas, clock towers, and other similar elements are encouraged.

- F. Windows/fenestration. Fenestration shall be architecturally compatible with the style, materials, colors, and details of the building, and appropriate to the setting. Windows shall be vertically proportioned wherever possible. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows. Blank, windowless walls are discouraged. Storefronts are an integral part of a building and shall be integrally designed with the upper floors to be compatible with the overall facade character. Ground-floor retail, service, and restaurant uses should have large-pane display windows, framed by the surrounding wall, and shall not exceed 75% of the total ground-level facade area.
- G. Entrances. All entrances to a building shall be defined and articulated by architectural elements such as lintels, pediments, pilasters, columns, porticoes, porches, overhangs, railings, balustrades, and other features, where appropriate. Any such element utilized shall be consistent with the style, materials, colors, and details of the building as a whole, as shall the doors. Awnings are permitted where they complement the building's architectural style.
- H. Light fixtures. Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building and shall comply with local building codes. The type of light source used on the exterior of buildings, signs, parking areas, pedestrian walkways, and other areas of a site, and the light quality produced, shall be the same or compatible. Facades shall be lit from the exterior, and, as a general rule, lights should be concealed through shielding or recessed behind architectural features. The use of low-pressure sodium, fluorescent, or mercury vapor lighting either attached to buildings or to light the exterior of buildings shall be prohibited. Mounting brackets and associated hardware should be inconspicuous. All lights shall be shielded to reflect downward and prevent sky glow.
- I. Lighting. Streetlights shall be decorative and shall blend with the architectural style of the community. Along all commercial or mixed-use streets, parking areas, sidewalks and walkways, decorative light posts shall be provided at regular intervals. Posts shall be spaced at no greater than 80 feet on center on both sides of a commercial or main street. Light posts should be at least 10 feet in height. In parking areas post heights may extend to a maximum of 16 feet.
- J. Facade materials. The primary facade materials shall include either clapboard, decorative shingles with appropriate trim and detailing, stone/masonry, stucco or brick. Manufactured materials that resemble wood, stucco, brick, etc., may be used but should be of a high quality to blend in with existing historically utilized materials. Accents such as projecting, bow, bay and boxed windows are encouraged. Individual facades should generally consist of no more than three materials and/or textures.
- K. Building colors. It is recommended that a color palate be developed for each development utilizing colors that blend or complement those in surrounding uses. Facade colors and design should vary from building to building and not be repeated within any five building frontages on any street. A combination of lighter masonry and darker earth tones are appropriate for commercial brick facades.

L. Soffit emphasis. In buildings with a soffit, the underside of the overhang is often more visible than the roof and should be articulated. The soffit should therefore receive a greater emphasis and budget than is typically afforded.

M. Soffits. All building soffits and overhangs shall be designed to provide shade in the summer and allow sunlight to enter the building in the winter. As such, southern and western exposures shall feature exaggerated (wider) soffits.

N. Utilities.

(1) Mechanical structures shall be fully integrated with the architectural and structural design of the building in order to minimize the negative aesthetic impact upon the viewer, both from street level and as may be viewed from adjacent properties. All parts and components of cellular phone antennas, satellite dishes, television and radio antennas shall be designed to be in harmony with the architectural context and shall not be visible from the front street or sidewalk.

(2) All utilities shall be underground. Machinery and the mechanical controls for same, including but not limited to transformers, junction boxes, electrical meters and condensers shall be located to the side or rear of buildings and/or otherwise screened from frontages by building elements in a manner consistent with the design of the building.

O. Rain gutters. It is encouraged that stormwater from roofs be collected on site and reused for irrigation and other uses that require nonpotable water.

§ 320-22. Street design standards/public frontage types.

A. Street design standards. The street design shall consider methods for creating complete streets that consist of lanes for vehicles and bicycles, as well as pedestrians. Sidewalks and landscaping along these thoroughfares are required. The following standards must apply:

(1) The street configurations and locations shall be designed utilizing context-sensitive design in combination with the design standards identified herein.

(2) Each thoroughfare type shall be dimensioned and specified as to right-of-way width, pavement width, sidewalk width, traffic lanes, parking lanes, planting treatment and other factors that may apply to both the functional and aesthetic character of the specific street as specified in the attached street sections.

(3) All streets shall be open to the public, except for internal lanes, in order to provide access to specific uses on private property. All streets shall be improved to finished specifications prior to the occupation of the buildings.

(4) Pedestrian spaces must have continuous paving that extends across all streets and intersections and be of a paving

material which differentiates it from the street surface.

- (5) Wherever appropriate, all streets shall provide on-street, curbside parking available to the public, with the exception of any internal lanes.
- (6) The on-street parking spaces shall not be attached to any specific use but may contribute 0.5 space per space of parking requirements and may be used for additional parking needs.
- (7) The street improvements identified in this section include all infrastructure, paving base and surfaces, sidewalks, street trees, streetlights, and curbs to meet Town and county standards.
- (8) The street sections are meant to be starting points for design; however minimum design standards shall apply.

B. Pedestrian realm.

- (1) Sidewalk areas must be provided along all streets and shall be properly sized for the safe and convenient movement of pedestrians through and around the area, taking into consideration such factors as: the volume of traffic on the street, the width of the roadway, and the adjoining land uses.
- (2) Sidewalk areas must be attractively landscaped and durably paved in conformance with any minimum landscape standards and shall be provided with adequate lighting according to lighting standards. Decorative paving materials and pedestrian-scale lighting is required.
- (3) Traffic signage shall be consolidated and affixed onto lampposts to the maximum extent practical so as to reduce the number of poles, obstructions and visual clutter in the streetscape and pedestrian movement. All traffic signage must be in accordance with current MUTCD (Manual on Uniform Traffic Control Devices) guidelines.
- (4) All signal and light posts must be a consistent dark color.
- (5) All sidewalks and intersections must be ADA compliant.
- (6) Crosswalks are required at each intersection.
- (7) Crosswalks must be a different texture, pattern and surface from roadways and sidewalks.
- (8) Sidewalks shall not be asphalt and shall adhere to the Town's minimum standards for sidewalks.
- (9) The buffer area between the curb and sidewalk should be of a different paving material and texture than sidewalks,

preferably a textured material such as pavers, brick, and/or synthetic brick.

C. Trash enclosure requirements. All commercial and multifamily residential uses shall provide trash enclosure and recycling facilities that adhere to the following standards:

- (1) Each structure shall be designed so as to accommodate easy, safe, and sanitary access to disposal facilities and recyclable containers.
- (2) Disposal and recycling pickup shall be from a disposal facility, where accessible to a contracted hauler.
- (3) Disposal and recycling containers must be stored where they are not accessible to wildlife.
- (4) Disposal facilities shall either be located internally to the facility or screened from the street and the pedestrian realm with an enclosure utilizing materials that are compatible with those of the principal structure on the property. Woven wire mesh fencing is prohibited.

D. Context sensitive design. All streets shall be designed utilizing context-sensitive design (CSD) combined with the minimum street design standards to tailor street designs to the specific situation within which the roadway is being constructed. All streets must be complete streets and provide for multiple users including pedestrian, car, bike and transit (where appropriate). The following items should be considered when designing streets, street frontages, streetscapes and pedestrian or bicycle amenities within the Town of Newton:

- (1) Context sensitivity. Considerations include land uses, users, environmental issues, goals of the community, location and intensity of use.
- (2) Geometric flexibility. Allowing width of the travel lanes, sidewalks, etc., to flex depending on traffic needs, multimodal accommodations, existing and proposed land uses and other considerations.
- (3) Performance flexibility. Allowing flexibility of the posted speed on the roadway can accommodate the varying widths and uses of the road depending on location.
- (4) Institutional collaboration. State, county and local officials will need to work together to create appropriate designs for roadways within the Town depending on the entity with jurisdiction over the project.
- (5) Public outreach and response. For high-volume roadways it is very important to gather public input on the needs of the community with respect to the project. Their input should be incorporated wherever possible and practical.
- (6) Modal balance. In order to address the needs of multiple modes of transportation, other modes may have to be

addressed creatively to achieve a balance.

E. Minimum design standards for complete streets.

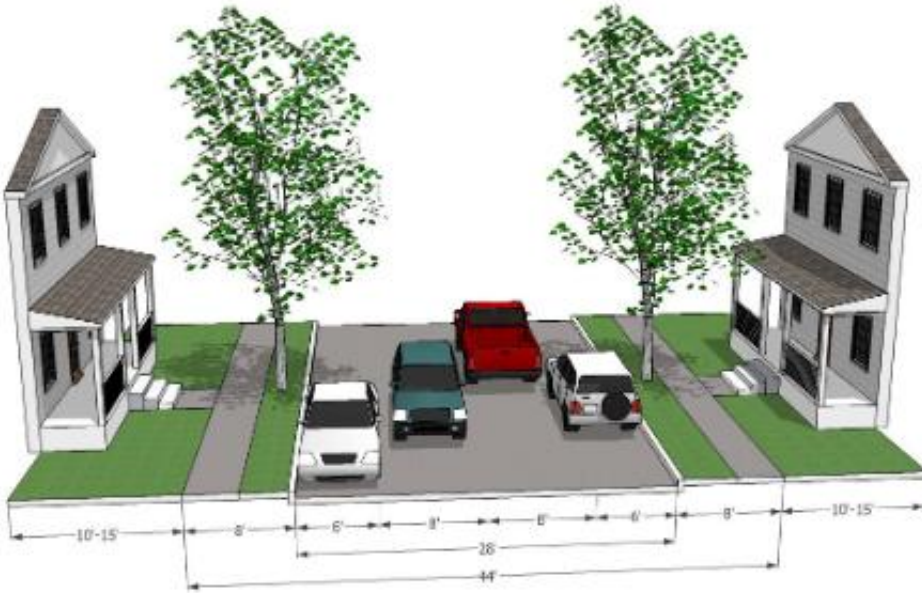
| Street Type by Transect | Travel Lanes/Turning Lanes | Parking Lanes* | Bike Lanes (where applicable**) | Sidewalks/ Buffers |
|----------------------------------|--|--|--------------------------------------|---|
| Local street (T-3) | 8 feet to 10 feet/no turn lanes | 6 feet to 8 feet on one or both sides | 4 feet (shared on street) | 4 feet to 5 feet/2 feet to 6 feet buffer |
| Collector (T-3) | 10 feet/no turn lane | 7 feet to 8 feet on one or both sides | 5 feet designated on street lanes | 4 feet to 5 feet/2 feet to 6 feet buffer |
| Collector (T-4 to T-6) | 10 feet to 11 feet/9- foot turn lanes | 8 feet on one or both sides | 5 feet designated on street lanes | 6 feet to 8 feet/2 feet to 4 feet |
| Arterial (T-1 to T- 3) | 10 feet to 12 feet/no turn lane | 7 feet to 8 feet on one or both sides | 5 feet designated on street lanes | 4 feet to 5 feet/2 feet to 6 feet |
| Arterial/highway (T-4 to T-6) | 10 feet to 12 feet/9- foot turn lane | 8 feet on one or both sides | 5 feet designated on street lanes | 8 feet to 10 feet/2 feet to 6 feet |

* **On streets where bike lanes are proposed; parking lanes should be removed or reduced and buffers can be reduced or eliminated in order to moderate total widths.**

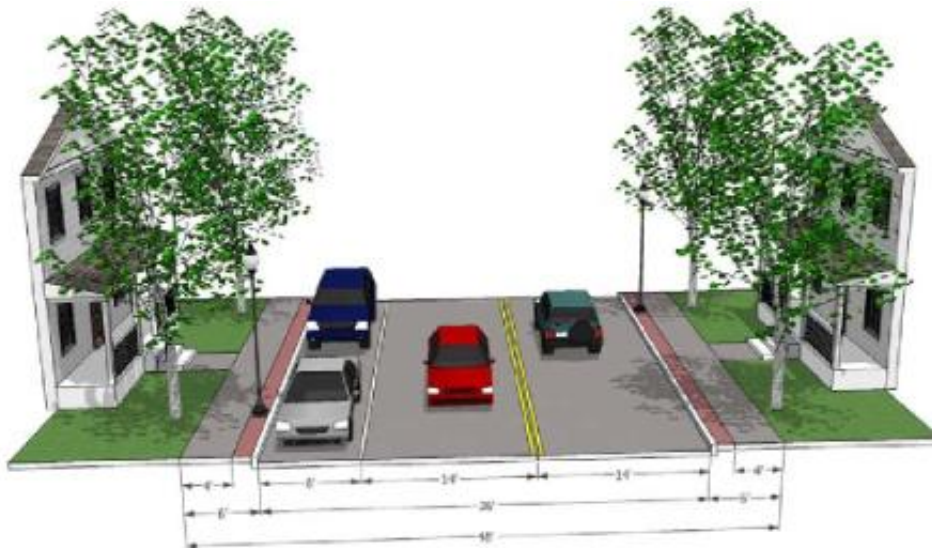
** Proposed bike lane locations are proposed in the bike path section of the report. Not all streets will have bike lanes.

F. Public frontage types. The following are examples of permissible roadway types in the Town by zone. The width of the developed roadway does not necessarily reflect the right-of-way width of the roadway which may be greater than the roadway width in some cases. Roadways that are narrower than the typical fifty-foot right-of-way are shown to accommodate on the ground conditions that do not permit construction of larger width roadways. Where greater amounts of right-of-way exist, wider roadway widths are shown.

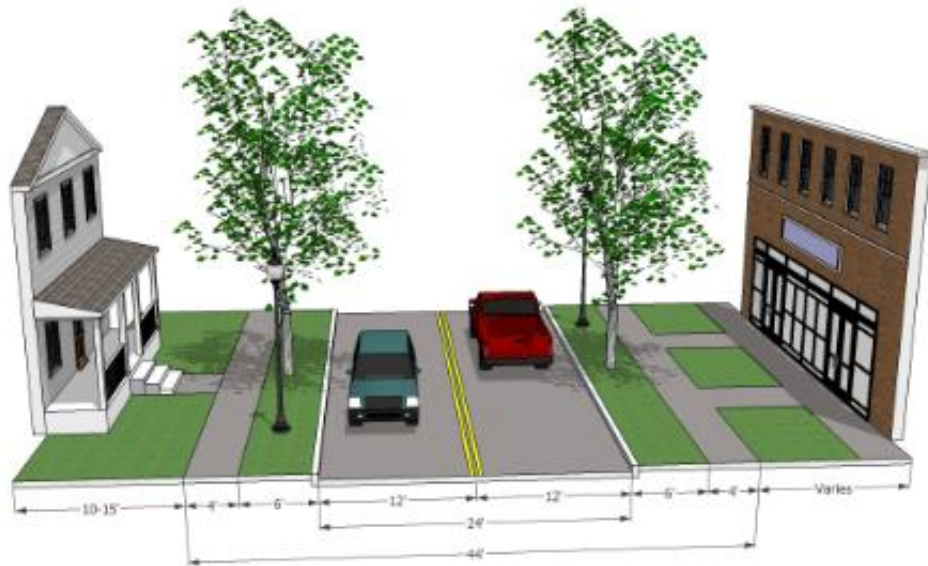
(1) T-3 local street.



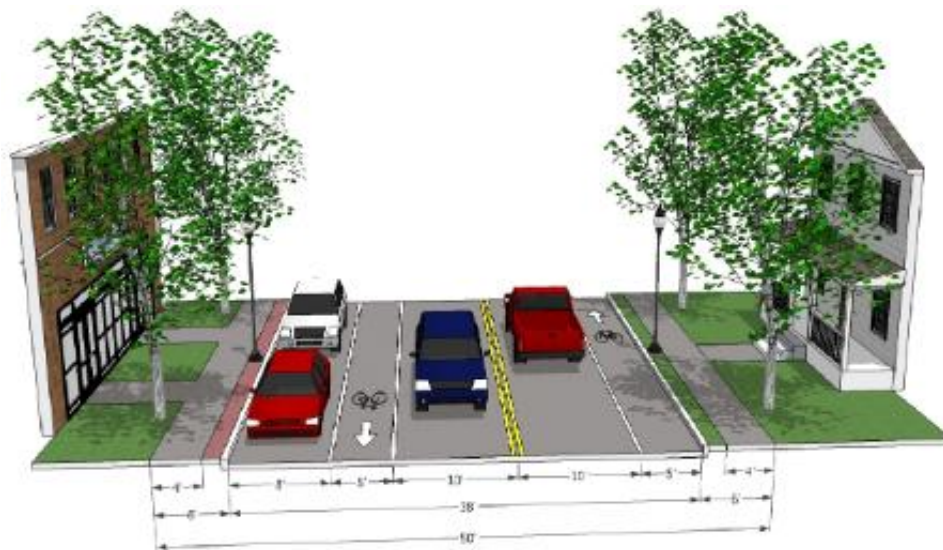
(2) T-3 collector.



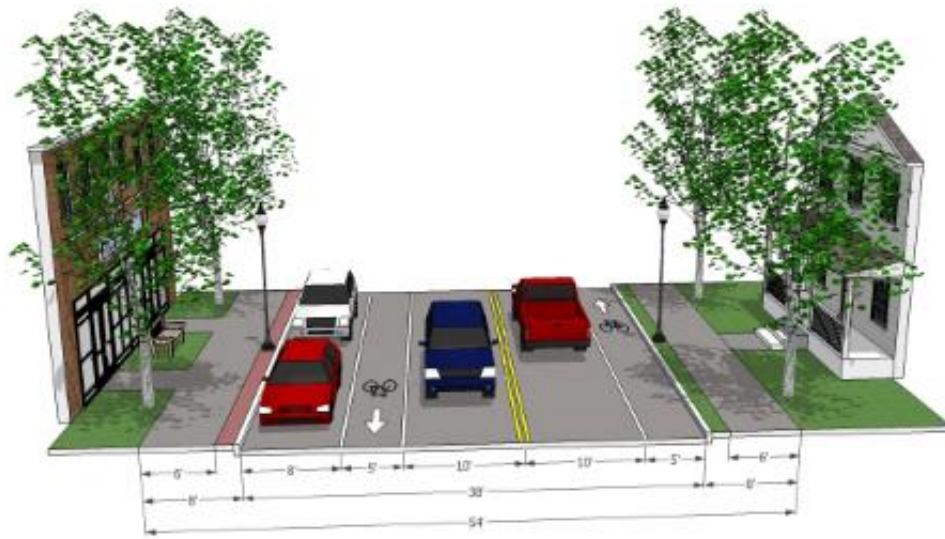
(3) T-4 collector.



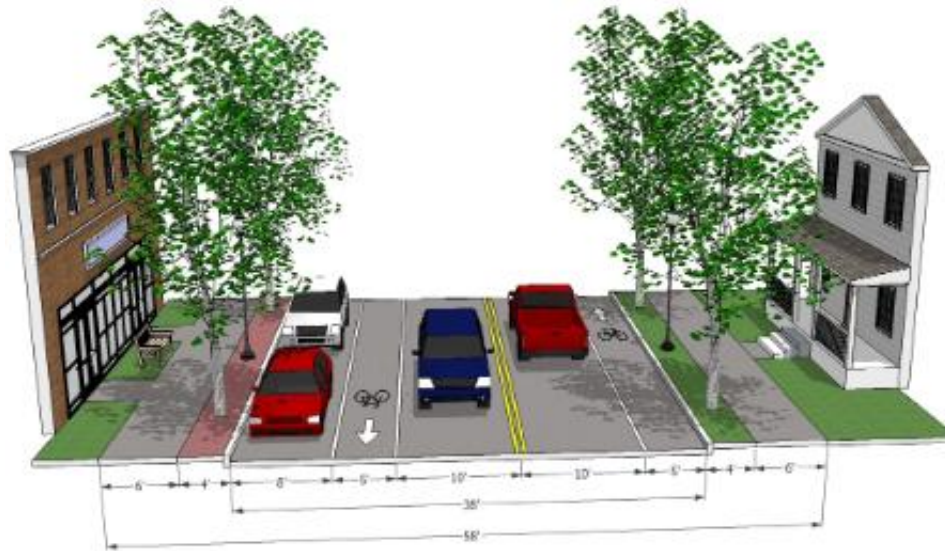
(4) T-4 and T-5 major arterial: fifty-foot roadway.



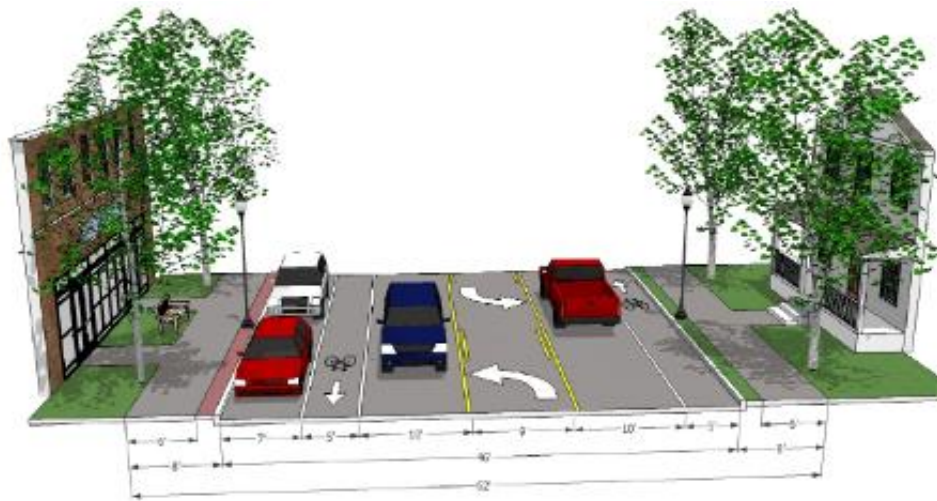
(5) T-4 and T-5 major arterial: fifty-four-foot roadway.



(6) T-4 and T-5 major arterial: fifty-eight-foot roadway.



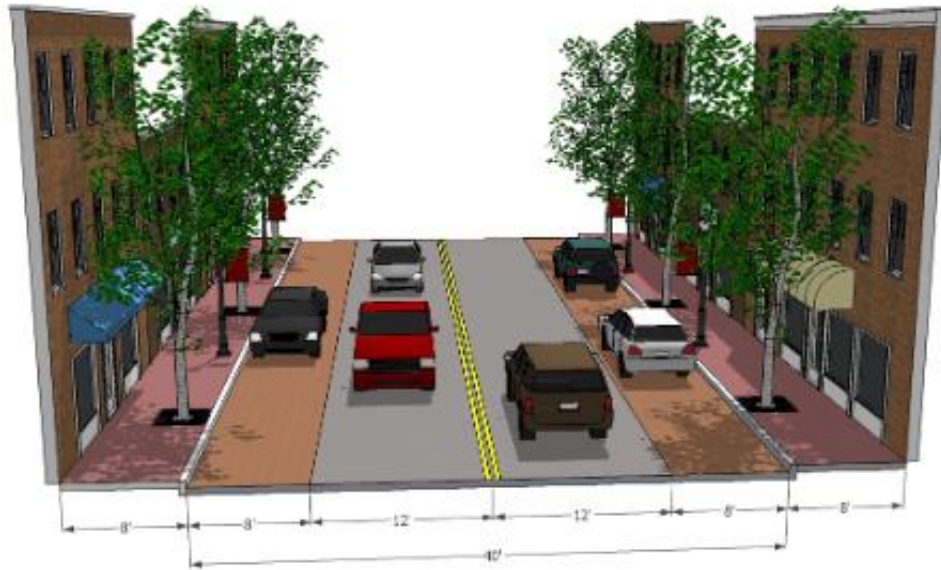
(7) T-4 and T-5 major arterial with turning lane.



(8) Rear alley or internal lane.



(9) T-5 major arterial.



(10) T-6 major arterial.



§ 320-23. Parking and driveway standards.

A. Minimum parking requirements. Parking needs vary based on uses and location, access to transit and other modes of transportation. This chapter permits flexible parking standards based on the transect that the use is in, as well as other factors including shared parking possibilities, size of use and access to municipal parking lots. Parking requirements are based on use and transect zones as follows:

Parking Requirements by Transect Zone and Use

| | T-2/T-3 | T-4 | T-5/T-6 |
|----------------|-----------------------|-----------------------|-----------------------|
| Residential | 2.0/dwelling | 1.5/dwelling | 1.0/dwelling |
| Lodging | 1.0/bedroom | 1.0/bedroom | 1.0/bedroom |
| Office | 3.0/1,000 square feet | 3.0/1,000 square feet | 2.0/1,000 square feet |
| Retail | 4.0/1,000 square feet | 4.0/1,000 square feet | 3.0/1,000 square feet |
| Restaurant | 1.0/3.0 seats | 1.0/3.0 seats | 1.0/4.0 seats |
| Light industry | 3.0/1,000 square feet | 3.0/1,000 square feet | 2.5/1,000 square feet |

Special districts use T-4

B. Shared parking. In order to promote more efficient use of parking facilities, a parking space may be counted towards the parking requirement for two or more different uses provided that the parking is within 250 feet of the use and the use is on the shared parking factor table.

- (1) The shared parking factor illustration below shows how shared parking can be calculated for two uses within the same vicinity of one parking area. The shared parking factor is used by adding together the parking requirement for each function then dividing it by the shared factor. For example, if a residential use requires 10 spaces and retail use requires 10 spaces, the total number of 20 spaces is divided by the shared parking factor of 1.2, yielding a requirement of 17 spaces. The shared parking factor should be utilized for uses in adjacent blocks within the proximity of a shared lot. When three functions share parking, the lowest factor should be used to assure enough parking is provided.

- (4) Surface parking shall be screened from adjacent residential lots via wood board-on-board privacy fencing, or other fencing as deemed appropriate by the Planning Board, at least six feet in height and not exceeding eight feet in height, or by landscaping screening pursuant to § **240-8C**.
- (5) A ten-foot minimum buffered planter strip is required between surface parking lots and an adjacent property line.
- (6) Parking lot layout should take into consideration pedestrian movement and pedestrian crossings shall be installed where deemed necessary by the Town Engineer.
- (7) Parking and loading areas shall be designed according to the standards of § **240-8**.

D. Structured parking. Multileveled structured parking may be considered to provide additional parking on site without using additional land area provided that it meets the following requirements:

- (1) Structured parking shall utilize the architectural vocabulary of surrounding building facades and shall be made to appear as an occupied building or utilize liner buildings.
- (2) Blank walls shall not be permitted.
- (3) Structures shall utilize design elements such as arcades, awnings, landscaping, colonnades and/or street furniture to incorporate the building into the surrounding area.
- (4) Parking entrances shall be identified through increased massing, architectural elements and/or signage to ensure the entrance is easily and safely visible from the access drive or street. Where possible, access shall be from secondary streets or alleys.

E. Residential driveways. Driveways on residential lots shall be no closer than three feet to any side or rear property line, except that, on lots that are 50 feet or less in width, the Zoning Officer may permit driveways to be located no closer than one foot to a side or rear property line. In those instances where a common driveway is proposed by adjoining property owners, then no driveway offset from the common property line is required.

§ 320-24. Fencing, landscape and lighting design standards.

A. Fences or walls.

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

- (2) Wherever possible, natural screening shall be used to achieve privacy. However, where a privacy fence appears to offer a better alternative than the absence of such fence or natural screening due to circumstances involving the characteristics of the affected properties, fences conforming to this section shall be permitted.
- (3) The finished side of all fence surfaces shall face adjacent properties.
- (4) No fence shall be erected of barbed wire or similar harmful elements, nor constructed in any manner which might be dangerous to persons or animals, except that this restriction shall not apply to farms.
- (5) No fence or wall shall be erected in a prescribed sight triangle.
- (6) No fence anywhere in a front yard, including a fence running along or approximately parallel to a side lot line within a front yard, shall be more than four feet high.
- (7) No fence, running substantially along a rear lot line, or approximately parallel thereto, or otherwise in a rear yard, shall exceed six feet in height measured from average grade corresponding to each eight-foot section of fencing. If such fence has decorative scalloped panels or pickets along its upper edge, height may be measured to the lowest point of such edge, thus allowing posts and corresponding elements to exceed the height limitation of this subsection, but in no event by more than one foot. Where a rear yard or side yard of a corner lot abuts a side lot line and front yard of an adjacent lot, then in no event shall a fence in such rear or side yard on the corner lot exceed four feet in height such portion thereof which lies parallel to or otherwise substantially alongside the front yard of the adjacent lot.
- (8) All fencing other than a stone fence, stone (or masonry) wall, or iron-decorative type fence shall be constructed of wood or a material that is relatively indistinguishable from wood.
- (9) Walls of masonry or natural stone (not retaining walls), such as New England drywalls and rows of fieldstone, shall not exceed a height of four feet.
- (10) Without limitation hereto, the following fences and fencing materials are specifically prohibited:
 - (a) Barbed wire or other hazardous construction or material unless on a farm;
 - (b) Canvas, fabric or cloth fences;
 - (c) Electrically charged fences unless on a farm;
 - (d) Temporary fences, such as snow or silt fences, except as the latter may be necessary during development or other approved land disturbance;

- (e) Plastic slats or other inserts in woven wire fences.
- (f) Any fence, wall or similar structure as well as shrubbery screening which substantially cuts off light or air or which may cause a nuisance, dangerous condition or a substantial fire-fighting impediment shall be prohibited.
- (g) Notwithstanding § **320-24A(8)**, woven wire fencing may be substituted for wood or simulated wood fencing for safety, a dog run or other appropriate reason; provided, however, that the closed loop edge shall be at the top, and no part of such fencing shall lie within a front yard.
- (h) Swimming pool fences. Every private swimming pool shall have a fence enclosure which complies with (BOCA) Building Officials and Code Administrators International.
- (i) Retaining wall. Any retaining wall 48 inches or greater in height shall be designed by a licensed professional engineer and shall require a building permit.

B. Landscape standards.

- (1) A detailed landscape plan in accordance with the site plan and subdivision standards shall be prepared by a licensed landscape architect for all site plan proposals.
- (2) The landscape plan shall include the highest quality materials and, at minimum, specify type and color of pavers and other hardscape materials, type and quality of decorative lighting fixtures, specific color and material of decorative site furnishings, as well as locations and quantities of each. The landscape plan shall also include species, sizes, and planting plans for all vegetation.
- (3) All street tree types shall be recommended by a local arborist, nurseryman, or landscape architect acceptable to the Planning Board and shall be a type suitable for the area's environment. Lists of suitable trees are available from the Community Forestry Council, a division of the New Jersey Division of Parks and Forestry, or the New Jersey Nursery and Landscape Association.
- (4) Native plants should be used before other alternatives.
- (5) All landscape materials planted by the developer must have a two-year maintenance guarantee. If any planting materials die within two years of planting, they must be replaced during the following planting season.
- (6) Sidewalks should enhance the pedestrian experience. Toward that end, the following must be included within the landscaping plan:

(a) Barrier-free access to all pedestrian space.

(b) Use of pedestrian-scaled lighting.

(c) Use of pedestrian-scaled signage.

(7) All open areas not covered by buildings, paving, and sidewalks shall be graded and landscaped.

(8) Rainwater management shall be integrated into the site design. Rainwater shall be captured and stored for nonpotable uses.

(9) All landscaped areas must be well maintained, cleared, clipped and pruned to provide a positive healthy visual character.

C. Hardscape requirements for streetscape.

(1) Barrier-free access to all pedestrian spaces is required.

(2) Vehicular travel lanes shall be constructed of asphalt. Textured pavement such as brick, synthetic brick, cobblestone, pavers, and/or stamped concrete shall be used on all crosswalks, to act as a traffic-calming device, and on internal lanes where feasible.

(3) All curbing should be granite block, or a poured, brushed concrete. Asphalt curbing is expressly forbidden. Curbs shall be six inches in height from the final top height of the pavement.

(4) Sidewalks shall be constructed of scored concrete with brick edges and dividers or textured paving materials. The paver strip along the curb edge must be brick, synthetic brick or another approved paver.

(5) Crosswalks shall be of similar material and color as the paved sidewalks or textured strip and be in conformance with the street typology and pedestrian plan. Crosswalks must be of a different paving material or color than the road surface.

(6) Utilities shall not be located within the planting strip.

(7) Sidewalk areas shall be continuous across any driveway, including any decorative paving elements.

(8) Access to any driveway shall be via a dropped curb and sloped apron. Said access shall not be provided by the use of radius curbing and an extension of the street pavement.

(9) Driveway widths and curb cuts shall be kept to the minimum width necessary.

(10) Parking entrances. Entrances to off-street parking shall vary by building type and shall be located on surface parking areas located behind the primary structure.

D. Planting requirements for streetscape.

(1) All trees shall be a minimum of 2.5 inches in caliper measured at breast height (DBH) and have a minimum branch height of six feet at time of planting for yard trees, 10 feet minimum branch height for street trees.

(2) Street tree spacing is to follow the standards stated in Chapter **240**.

(3) Street tree planting should be strategically phased to ensure procurement of large quantities of uniform and consistently sized specimens of specifically selected species.

(4) Trees should only be planted during appropriate spring and fall planting seasons to the highest arboricultural industry standards; appropriate root barriers shall be installed at the time of planting.

(5) Native tree species with proven success shall be thoroughly searched by a plant broker before consideration of alternate species.

(6) Street trees shall not be planted within the clear sight triangle of each intersection.

E. Lighting requirements for streetscape.

(1) A unified standard for streetlighting within the area must be used. The use of a similar style to the fixtures used throughout the downtown of Newton is highly recommended to maintain continuity throughout the Town. Final approval of the fixture, pole type, and location will be made by the Planning Board.

(2) Streetlighting shall be placed in the textured strip between the curb and sidewalk.

(3) All streetlighting and exterior building lighting shall be designed to not shine upward so as to contribute to the illumination of the night sky and cause the effect known as "sky glow."

(4) All streets shall have decorative, pole-mounted lamps that are 12 feet to 14 feet in height, spaced a maximum of 40 feet on center.

(5) Metal-halide (or comparable light quality) lamps are suggested for their efficiency and light quality. Mercury vapor and

high-pressure sodium lighting shall not be allowed.

- (6) A comprehensive lighting plan must be provided with sufficient detail to illustrate that proper illumination is provided. The plan should illustrate all streets, all attached building lights, types of fixtures, lighting intensities, lighting patterns, filament type, shape of lens, and direction of illumination.
- (7) All streetlights shall have illumination and uniformity ratios which do not exceed the recommendations of the Illuminating Engineering Society of North America (IESNA). All sidewalks adjacent to roadways shall maintain a minimum 0.2 footcandle coverage.
- (8) Adequate exterior lighting shall be provided for safety while not casting light onto adjacent properties or shine onto streets or driveways in such a manner as to interfere with or distract driver vision.
- (9) All lighting shall use shielded light fixtures to prevent misdirected or excessive artificial light and maximize energy efficiently.

F. Semipublic edge requirements.

- (1) No asphalt paving or wood decking is allowed between the building line and the curb edge. Any paved area including walkways, etc., shall have equal or greater detail than the adjacent sidewalk.
- (2) Every building shall have direct access from the sidewalk to the primary pedestrian ingress and egress of a building by way of a walkway separate from driveways. Materials of the walkway shall complement the color and design of the building and the sidewalks.
- (3) All building frontages must be landscaped with appropriate vegetation (shrubs must measure at least 30 inches in height and 30 inches in width at the time of planting and be planted at the minimum spacing standard).
- (4) Fencing along all street frontages/semipublic edges shall not exceed three feet in height.
- (5) Only decorative-style fences, such as tubular steel or wrought-iron-type fences, are permitted along street frontages and along semipublic edges. The design of the fencing shall complement the architectural style of the building.
- (6) The use of native shrubs and grasses is encouraged.
- (7) Shade trees, flowering trees, and evergreens must be kept properly pruned.

G. Parking requirements.

- (1) All parking areas must be appropriately screened along the periphery on all sides as required.
 - (2) Fifty percent of paved parking lots' surface shall be shaded by tree canopies within 15 years of planting. Trees shall also be planted in the required landscaped areas along the periphery of the development in order to shade and enhance adjacent property and public rights-of-way.
 - (3) Minimum planter size between tiers of parking shall be as follows:
 - (a) Standard parking stall: (four feet to six feet).*
 - (b) Compact parking stall: (three feet to four feet).*
 - (c) Along periphery: (six feet).
- * Diamond planters can be used where space doesn't permit larger planters.
- (4) Green parking lots reduce runoff that is discharged into local water bodies by using natural drainage landscapes. Where possible bioengineered planting strips, bioswales, and rain gardens should be incorporated to reduce the environmental impact of development.

§ 320-25. Sign standards.

A. Sign standards. The sign standards section is intended to encourage signage which is compatible with the character of the building's architectural design and other signs and buildings within the vicinity of the business. These standards encourage efficient use of signage and minimization of visual clutter. Creativity and unique designs are encouraged that develop distinctive images using high-quality craftsmanship and materials.

- (1) Number of signs permitted by type.

| Sign Type | Number of Signs if Permitted |
|--|--|
| Freestanding/ground-mounted | 1 per building |
| Awning/canopy/facade/wall/projecting/blade/hanging | Choose any 2 per road frontage and 1 additional per nonfrontage side per establishment |
| Directional | 1 per ingress/egress |

| | |
|------------------------------------|---------------------------------------|
| Menu board | 1 per business |
| Portable/sandwich board | 1 per business |
| Professional/tenant identification | 1 per building |
| Real estate | 1 per building |
| Window | 1 per business |
| Home/professional occupation sign | 1 per building |
| Temporary sign/banner | 1 per business for maximum of 30 days |
| Quick response code (QR) | 1 per business |
| Decorative or open flags | 1 per business |

(2) Types of signs permitted by zone.

| Sign Type | T1/T2 | T3 | T4 | T5 | T6 | SD1-9 |
|---|--------------|-----------|-----------|-----------|-----------|--------------|
| Freestanding/ ground-mounted | NP | NP | P | P | NP | P |
| Awning/canopy/ facade/wall/ projecting/blade/ hanging | NP | NP | P | P | P | P |
| Directional | NP | NP | P | P | P | P |
| Menu board | NP | NP | P | P | P | P |
| Portable/sandwich board | NP | NP | P | P | P | P |
| Professional/tenant identification | NP | NP | P | P | P | P |
| Real estate | P | P | P | P | P | P |
| Window | NP | NP | P | P | P | P |

| | | | | | | |
|-----------------------------------|----|----|---|---|---|---|
| Home/professional occupation sign | P | P | P | P | P | P |
| Temporary sign/banner | NP | P | P | P | P | P |
| Quick response code (QR) | NP | NP | P | P | P | P |
| Decorative or open flags | P | P | P | P | P | P |

(3) Size of signs by type.

| Sign Type | Maximum Size |
|---|--|
| Freestanding/ground-mounted | 40 square feet |
| Awning/canopy | 4 square feet |
| Facade/wall | 1 square foot per lineal foot of facade |
| Projecting/blade/hanging | 8 square feet |
| Directional | 4 square feet |
| Portable/sandwich board | 8 square feet |
| Professional/tenant identification | 12 square feet total; 3 square feet per tenant |
| Real estate | 16 square feet |
| Window | 6 square feet |
| Home/professional occupation sign | 2 square feet |
| Temporary sign/banner | 24 square feet |
| Quick response code (QR)/TAG code or other similar technology code sign | 1 square foot |
| Decorative or open flags | 6 square feet |

B. Sign area measurement.

- (1) The areas of any sign face shall be measured as the product of the horizontal width and the largest vertical width of the lettering, illustration, display or background. Where there is no geometric frame to the sign, the sign size shall be determined by creating a four-sided box around the largest illustration or lettering in the sign.
- (2) The sign area measurement shall not include framing, trim, molding or supporting/hanging structure used to secure sign to the building.
- (3) For double faced signs, only one side is considered into the measurement.
- (4) For sign faces that are not parallel (i.e., v-shaped signs) both faces shall be considered into the computing of sign area.

C. Construction signage. During construction, one sign for each project or development phase may be displayed indicating the name of the project, developer, design professionals, general contractor, subcontractors, financing institution, and/or public agency officials (as applicable and appropriate). Construction signage must not exceed 25 square feet. Construction signage must be removed as soon as the certificate of occupancy is obtained.

D. Temporary signage and banners.

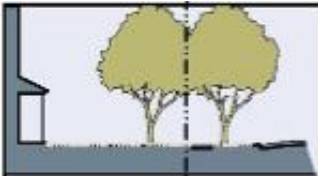
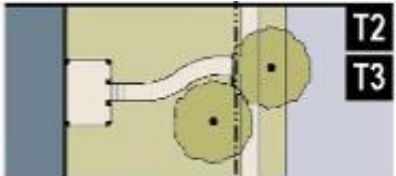

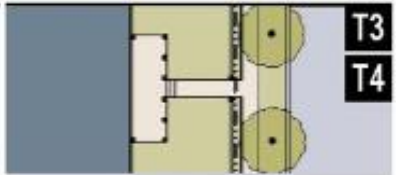


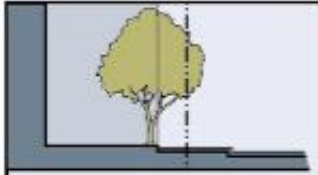
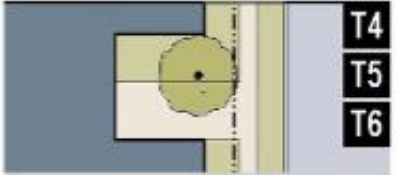
- (1) Temporary signs or banners that do not exceed the number and size as noted above may be displayed with a zoning permit for a maximum of 30 days provided that the temporary sign does not interfere with pedestrian or traffic safety.
- (2) Temporary signs for events such as elections and community events such as tricky trays, yard sales, etc., with a maximum size of three square feet may be placed in a residential zone with consent of the property owner up to 30 days prior to the event and must be removed within 48 hours after the event. Temporary signs for events such as elections and community events, with a maximum size of 16 square feet may be placed in a mixed-use, commercial or light industrial zone with consent of the property owner up to 30 days prior to the event and must be removed within 48 hours after the event.

E. Prohibited signage:

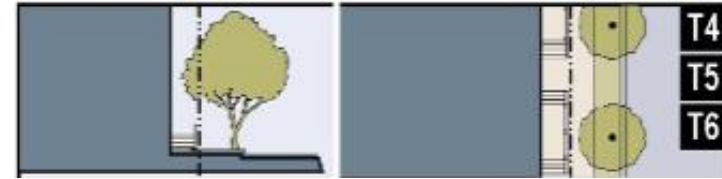
- (1) Fluorescent-lit signage or signage with glowing paint, flashing signs, rooftop-mounted advertising signage, signage above the second floor.
- (2) Portable signs for use as permanent signage.
- (3) Feather flags.

§ 320-26. Standards and tables.

A. Private frontages.

| | SECTION | PLAN |
|--|---|---|
| | LOT ► PRIVATE FRONTAGE ◄ R.O.W PUBLIC FRONTAGE | LOT ► PRIVATE FRONTAGE ◄ R.O.W PUBLIC FRONTAGE |
| a. Common Yard: A planted frontage wherein the facade is set back substantially from the frontage line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep setback provides a buffer from the higher-speed thoroughfares. |  |  |
| b. Porch & Fence: A planted frontage wherein the facade is set back from the frontage line with an attached porch permitted to encroach. A fence at the frontage line maintains street spatial definition. Porches shall be no less than eight feet deep. |  |  |
| c. Terrace or Lightwell: A frontage wherein the facade is set back from the frontage line by an elevated terrace or a sunken lightwell. This type buffers residential use from urban sidewalks and removes the private yard from public encroachment. Terraces are suitable for conversion to outdoor cafes. Syn: dooryard. |  |  |
| d. Forecourt: A frontage wherein a portion of the facade is close to the frontage line and the central portion is set back. The forecourt created is suitable for vehicular dropoffs. This type should be allocated in conjunction with other frontage types. Large trees within the forecourts may overhang the sidewalks. |  |  |
| e. Stoop: A frontage wherein the facade is aligned close to the frontage line with the first story elevated from the | | |

sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor residential use.



- f. Shopfront:** A frontage wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing on the sidewalk level and an awning that may overlap the sidewalk to within two feet of the curb. Syn: retail frontage.



- g. Gallery:** A frontage wherein the facade is aligned close to the frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. This type is conventional for retail use. The gallery shall be no less than 10 feet wide and should overlap the sidewalk to within two feet of the curb.



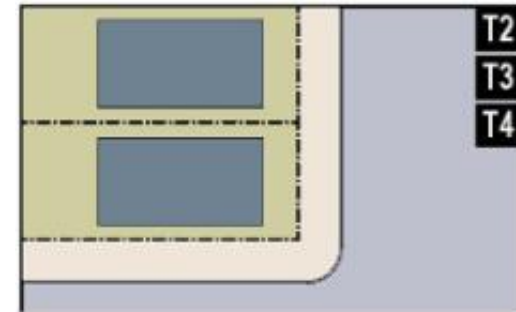
- h. Arcade:** A colonnade supporting habitable space that overlaps the sidewalk, while the facade at sidewalk level remains at or behind the frontage line. This type is conventional for retail use. The arcade shall be no less than 12 feet wide and should overlap the sidewalk to within two feet of the curb. See Table 8. *Editor's Note: Refer to building configurations in §§ 320-5B, 320-6B, 320-7C, 320-8C, 320-9C and 320-10C.*



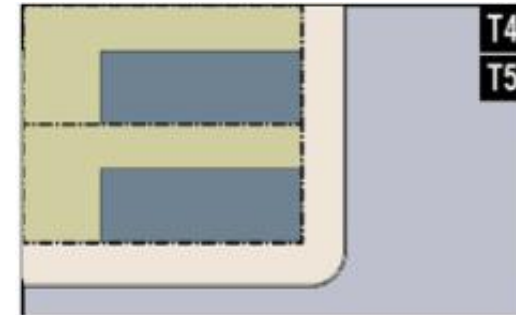
B. Building disposition.

- a. Edgeyard:** Specific Types — single-family house, cottage, villa, estate house, urban villa. A building that occupies the center of its lot with setbacks on all sides. This is the least urban of types as the front yard sets it back from the frontage, while the side yards weaken the spatial definition of the public thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be

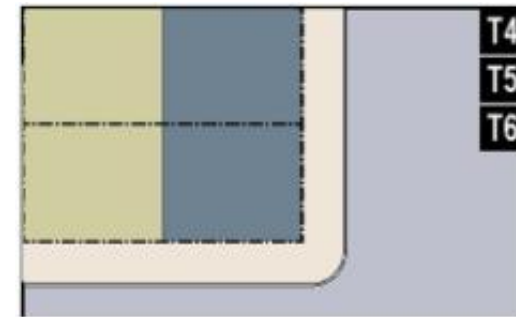
secured for privacy by fences and a well-placed backbuilding and/or outbuilding.



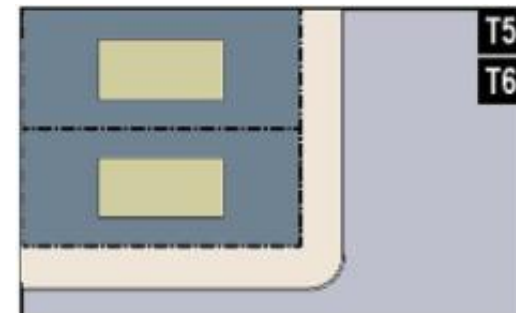
- b. Sideyard:** Specific Types — Charleston single house, double house, zero-lot-line house, twin. A building that occupies one side of the lot with the setback to the other side. A shallow frontage setback defines a more urban condition. If the adjacent building is similar with a blank side wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a sideyard house abuts a neighboring sideyard house, the type is known as a twin or double house. Energy costs, and sometimes noise, are reduced by sharing a party wall in this disposition.



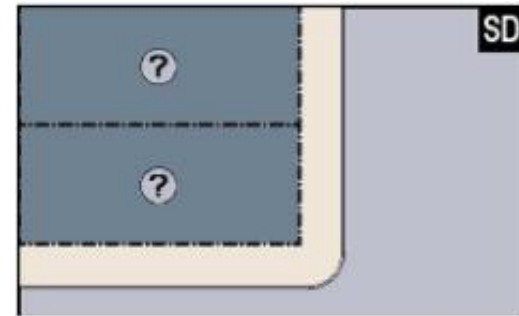
- c. Rearyard:** Specific Types — townhouse, rowhouse, live-work unit, loft building, apartment house, mixed-use block, flex building, perimeter block. A building that occupies the full frontage, leaving the rear of the lot as the sole yard. This is a very urban type as the continuous facade steadily defines the public thoroughfare. The rear elevations may be articulated for functional purposes. In its residential form, this type is the rowhouse. For its commercial form, the rear yard can accommodate substantial parking.



- d. Courtyard:** Specific Types — patio house. A building that occupies the boundaries of its lot while internally defining one or more private patios. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public thoroughfare. Because of its ability to accommodate incompatible activities, masking them from all sides, it is recommended for workshops, lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas.



- e. Specialized:** A building that is not subject to categorization. Buildings dedicated to manufacturing and transportation are often distorted by the trajectories of machinery. Civic buildings, which may express the aspirations of institutions, may be included.

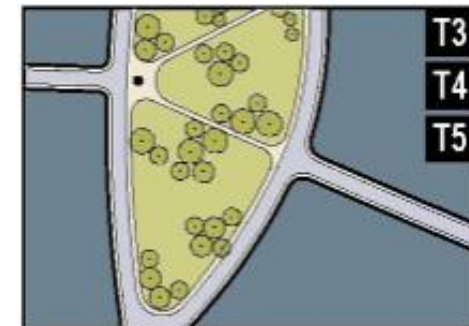


C. Civic space.

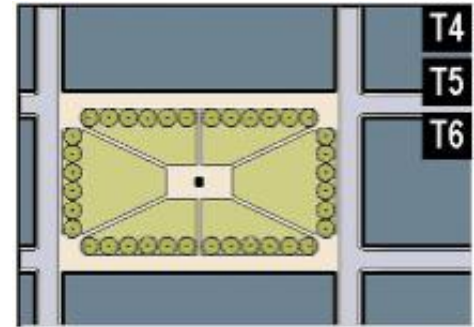
- a. Park:** A natural preserve available for unstructured recreation. A park may be independent of surrounding building frontages. Its landscape shall consist of paths and trails, meadows, water bodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be eight acres. Larger parks may be approved by warrant as special districts in all zones.



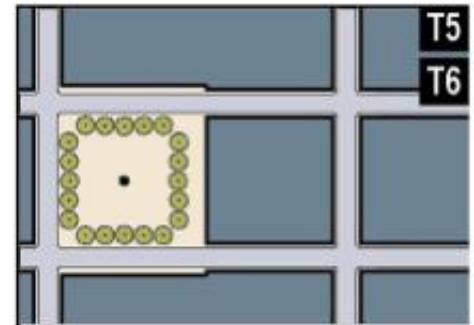
- b. Green:** An open space, available for unstructured recreation. A green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be 1/2 acre and the maximum shall be eight acres.



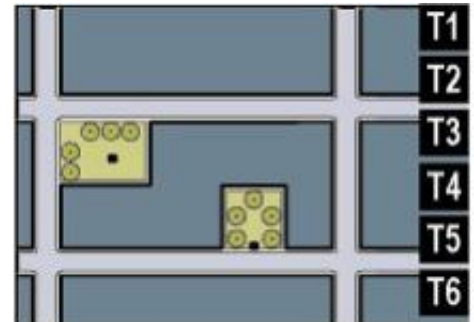
- c. Square:** An open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares. The minimum size shall be 1/2 acre and the maximum shall be five acres.



- d. Plaza:** An open space available for civic purposes and commercial activities. A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be 1/2 acre and the maximum shall be two acres.



- e. Playground:** An open space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.



§ 320-27. Nonconforming lots, uses and structures.

The following provisions shall apply to all lawfully existing nonconforming uses, structures or lots as well as all uses, structures or lots that become nonconforming by reason of any subsequent amendment to this chapter.

- A. Existing uses, expansion of nonconforming uses. Any nonconforming use existing at the time, or created as a result, of the passage of this chapter may be continued upon the lot or in the structure so occupied. No nonconforming use may be extended or expanded over a larger area than it occupies at the time of enactment of this chapter.

- B. Existing structures, enlargement or nonconforming structures. Any nonconforming structure existing at the time, or created as a result, of the passage of this chapter may be occupied, restored or repaired in the event of partial destruction thereof. Any such structure, which is substantially destroyed as deemed by the Construction Official, shall not be reconstructed or used except in conformance with this chapter. No nonconforming structure may be enlarged or expanded to cover a larger area than it occupied at the time of the adoption of this chapter without an appeal for variance relief.
- C. Existing lots, nonconforming area, width and setback.
- (1) Any lot nonconforming in area or width which was under one ownership or under contract of sale as of May 1969 when the owner thereof owns no adjoining land may be used as a lot for any purpose permitted in the zone, provided that the lot complies with all other regulations for the zone.
 - (2) Where a lot is situated between two lots, each of which is developed with a main building which projects beyond the established front building line and has been so maintained since May 1969, the minimum front yard depth required for such lot may be the average of the front yard of the existing buildings. Where a lot is situated between one lot developed as described above and a vacant lot, the minimum front depth required for such lot may be the average of the front yard of the existing buildings and the established front setback.
- D. Conversion to permitted use. After a nonconforming building or use has been converted to a permitted use, it shall not be changed back again to a nonconforming use.
- E. Abandonment. If a nonconforming use has been abandoned, such use shall not be reinstituted. Cessation of a nonconforming use for a continuous period of one year may be taken as prima facie evidence of an intent to abandon such use.

§ 320-28. Conditional uses.

Note: Uses listed as a conditional use in a particular zoning district may be permitted by the Planning Board only after it has determined that the development proposal complies with the conditions and standards set forth below for the particular use. Each application for a conditional use shall be accompanied by a proposed site plan showing the size and location of the lot, the location of all buildings and proposed facilities including access drives, parking areas, and all streets within 200 feet of the lot.

- A. Professional occupations. Professional occupations including the office of a physician, surgeon, dentist, minister, architect, engineer, attorney, optometrist, accountant, veterinarian, or similar professional person when located within his/her dwelling or in an accessory building on the same lot, provided that:

- (1) No more than one lighted nameplate or professional sign not over two square feet in area shall be permitted. The nameplate shall be attached to the building.
- (2) No more than two people, who are not residents of such dwelling, shall be employed in such office. The Planning Board shall determine whether a proposed professional use is similar to the professional uses herein authorized.
- (3) Off-street parking shall be provided at the rate of one space per 200 square feet of office space in addition to the parking required for the residential use. At a minimum, one space per employee and one space for client parking are required.
- (4) A zoning permit shall be required prior to the establishment of any professional occupation.

B. Home occupations. The following conditions shall apply:

- (1) No person other than members of the family residing on the premises plus up to two outside employees shall be engaged in such occupation. The person whose occupation is being operated from the home shall reside on the premises.
- (2) Use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the principal structure or 50% of the floor area within an accessory building on the lot shall be used in the conduct of the home occupation.
- (3) Such occupation may be pursued in the principal dwelling structure or accessory building, but shall give no external evidence of nonresidential use other than a small nameplate sign not to exceed two square feet in size attached to the structure, and shall not display products visible from the street.
- (4) No traffic or parking shall be generated in excess of three passenger automobiles at any one time in addition to those used by the owner or tenant, all of which must be parked off street in properly designated spaces. No off-street parking shall be permitted in the front yard setback or in front of the building.
- (5) No mechanical or electrical equipment is used that will be detectable to the normal senses or that will create electrical or radio or television interference.
- (6) No goods, chattels, materials, supplies or items of any kind can be delivered either to or from the premises in connection with the home occupations except in a car, station wagon, van or other four-wheeled vehicle, i.e., FedEx truck or UPS truck.
- (7) No occupation involving the general retail sale of merchandise to the public, as distinguished from the filling of prior

orders for specific merchandise, shall be permitted.

(8) There shall be no more than one home occupation in any one dwelling unit.

(9) A zoning permit shall be required prior to the establishment of any home occupation with the exception of home offices as defined in § **320-3**.

C. Cemeteries. Cemeteries shall be subject to the following conditions:

(1) Any structures or service facility associated with cemetery purposes shall not be located within 100 feet of any abutting noncemetery lot lines.

(2) Burial plots shall not be located within 50 feet of any existing residential lot lines.

D. Clubs, lodges and fraternal organizations. Clubs, lodges and fraternal organizations shall be subject to the following conditions:

(1) No building or part thereof or any parking or loading area shall be located nearer than 25 feet to any street or lot line.

(2) No alcoholic beverage license is issued or shall be used in connection therewith.

(3) A ten-foot-wide landscaped buffer, screen or fence shall be placed along abutting residential side or rear lot lines to screen from view the parking and/or loading zones of such conditional use.

E. Residential cluster development.

(1) Residential cluster development for single-family dwellings may be applied for in accordance with the provisions of this section to modify bulk and area requirements specified in the T-2 and T-3 Districts.

(2) The total number of lots erected in a residential cluster development shall not exceed the maximum number of lots that can be created by subdividing the property in conformance with the area and lot requirements as set forth in the T-2 and T-3 Districts, whichever is applicable. A conceptual sketch plan shall be submitted in order to establish the maximum number of lots that can be counted for clustering purposes. In computing the maximum number of lots that may be created, any proposed lot occupied by public utility easements or otherwise encumbered by steep slopes, flood hazard areas, freshwater wetlands or public utility easements to the extent that these constraints would render a proposed lot unbuildable shall not be considered as a lot in the preparation of the sketch plan.

(3) Any residential cluster development must contain a minimum of 10 acres. Lots may be reduced in size, provided that a

minimum of 40% of the total tract shall be devoted to common open space.

- (4) The common open space shall be accessible to all residents of the residential cluster. The maximum feasible number of lots shall be adjacent to the common open space as is reasonably possible. The configuration of common open space should be so arranged that connections can be made to existing or future adjacent open spaces and to contiguous publicly owned open space. Sections of common open space not connected to other sections of common open space shall be discouraged, unless required by particular site constraints. The common open space shall maximize the sense of openness of the residential cluster when seen from public roads and other vantage points in abutting developments, if applicable.
- (5) A developer may apply to the Planning Board for permission to donate common open space land derived from application of a cluster technique as provided for below. Any disposition of common open space shall be subject to the requirement that the common open space will be retained and maintained for open space use in perpetuity:
 - (a) To a homeowners' association which shall be created before homes are sold; or
 - (b) To the Town for public purposes with the consent and approval of the Town Council.
- (6) In situations where the parcel of land proposed for a residential cluster development is part of a larger tract in the same ownership, a conceptual plan of the entire tract showing how the contiguous undeveloped land could be developed shall be provided.
- (7) Before approving a residential cluster development, the Planning Board shall determine that the proposed residential cluster development meets all requirements of this chapter and the land subdivision chapter of the Town. *Editor's Note: See Ch. 240, Land Subdivision and Site Plan Review.*

F. Group care facilities and households. A group care facility is a dwelling unit housing persons unrelated by blood or marriage and operating as a group family household such as, but not by way of limitation, halfway houses, recovery homes, homes for orphans, foster children, the elderly, battered children and women, specialized treatment facilities providing less than primary health care, intermediate care facilities, supervised apartment living, hostels or any other group of individuals not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit in an intentionally structured relationship providing organization and stability. Such group care facility or family household is permitted subject to the following express conditions:

- (1) Any such facility shall be limited to eight such persons plus not exceeding four staff members.
- (2) The residence shall have at least two means of egress.

- (3) There shall be at least 425 square feet of open yard area, exclusive of parking areas, buffer strips, or gardens, for each inhabitant of the facility, including staff.
- (4) Off-street parking shall be provided on the basis of one space for each staff member and one space for each occupant. Parking areas shall be constructed in compliance with § **320-8**. Parking spaces shall be located at least 20 feet from any principal structure, unless located in a building.
- (5) There shall be a buffer strip on all parcel lines, except public street lines, at least 15 feet in width or 25 feet when abutting existing residential uses, which shall be landscaped so as to create a visual screen at least four feet in height at the time of planting. The planting shall be in double alternate rows so as to assure maximum privacy. Such planted buffer strip shall be maintained at all times.
- (6) Access shall be adequate for all emergency vehicles and there shall be a hydrant located within 600 feet of the premises.
- (7) Where by statute up to six persons are specifically permitted in one or more of the types of facilities specified above, the statutory number of persons shall be permitted; subject, however, to compliance with Subsection **F(2)** through **(6)** of this section. Where by statute certain of such uses are permitted in all residential zones, they shall be subject to Subsection **F(2)** through **(6)** of this section.

G. Licensed taxicab business office. Officers used for conducting licensed taxicab business shall be subject to the following regulations:

- (1) One off-street parking space shall be provided for each licensed taxicab.
- (2) Storage parking areas for taxicabs shall be suitably screened from public view at the rear and side lot lines. No taxicab storage other than for one such vehicle shall be permitted in the front yard or in front of the building used to conduct such business.

H. Motor vehicle sales and repairs; motor vehicle service stations and commercial garages. Motor vehicle service stations, motor vehicle commercial garages, motor vehicle sales and repairs, except motor vehicle wrecking yards, shall be permitted provided that the following conditions are met:

- (1) At no time shall more than five motor vehicles which have been involved in accidents or which are in such condition they cannot operate under their own power be stored, maintained or be permitted to stand upon any premises.
- (2) This provision, however, shall not apply to such vehicles if kept in a building and further provided that no such vehicle

or vehicles shall be stored, kept or maintained on any premises for a period of longer than 30 days, except within a building or enclosure as hereinabove provided.

- (3) Where a motor vehicle service station is duly licensed to provide propane gas tank refilling services, such service shall be accessory to the service station principal use. Such tank refilling activity shall be located on the lot so as not to impede safe traffic flow on the site and shall be adequately fenced and screened from abutting properties.

I. Motor vehicle body shops. Motor vehicle body shops shall be permitted, subject to the following provisions:

- (1) They must be accessory to either motor vehicle sales, motor vehicle repairs, services stations or commercial garages.
- (2) At no time shall more than five motor vehicles which have been involved in accidents or which are in such condition they cannot operate under their own power be stored, maintained or be permitted to stand upon any premises.
- (3) This provision, however, shall not apply to such vehicles if kept in a building and further provided that no such vehicle or vehicles shall be stored, kept or maintained on any premises for a period of longer than 30 days, except within a building or enclosure as hereinabove provided.

J. Farm and agricultural uses. In the districts where farm and agricultural uses are permitted, the following additional provisions governing their use shall apply:

- (1) Such uses are conducted upon a lot not less than five acres in area.
- (2) No building or structure used for shelter or enclosure of fowl, game, horses, farm livestock, or adult dogs shall be closer to any property line than 200 feet.
- (3) Buildings used for the shelter of fowl of any kind shall have a maximum usable floor area of 2,000 square feet for the first 10 acres and 5,000 additional square feet for each additional acre.
- (4) One domestic horse for the personal use of the occupants of the residence may be maintained on any lot at least three acres in size.
- (5) The display for sale of products grown or raised by the owner, tenant or lessee on a roadside stand shall only be permitted where:
 - (a) The sale of such products is within the confines of the property upon which they have been grown or raised.
 - (b) The place of sale or storage of any such products, whether of a permanent or temporary nature, shall not be

closer than 100 feet to any side lot line.

- (c) The sale of any such products shall not have a deleterious effect on adjoining properties by reason of nuisance or health hazard.
- (d) The sale of any such products shall also require a suitable amount of off-street parking and loading space as required in the general off-street parking section of this chapter.

K. Bed-and-breakfast dwelling. A bed-and-breakfast dwelling shall meet the following conditions and standards:

- (1) Application. The lot shall be located within the locally designated historic district.
- (2) Use limitations.
 - (a) The bed-and-breakfast facility shall have no less than two rooms for guest occupancy.
 - (b) Guest rooms shall not contain cooking facilities.
 - (c) The owner, operator or manager of the bed-and-breakfast facility shall reside on the premises.
- (3) Bulk standards. A bed-and-breakfast facility shall conform to the zone district's dimensional and area requirements for a residential use.
- (4) Parking. In addition to the required off-street parking for the principal use, one parking space for each guest room and one space for each employee of the facility shall be provided. Reduction in the required number of off-street parking spaces may be permitted by the Planning Board at the time of site plan review, upon demonstration that shared parking or an alternate site location is feasible, adequate and available for the term of the bed-and-breakfast use.
- (5) Additional design standards.
 - (a) Unless required for the principal use, a bed-and-breakfast dwelling does not require an off-street loading space.
 - (b) Landscaping or screening shall be provided to adequately shield from view rear yard activities including required off-street parking spaces from adjoining residential properties.
 - (c) No parking shall be permitted in the required front yard set back or in front of the building containing a bed-and-breakfast.

(d) The architectural character of any structure to contain a bed-and-breakfast facility shall be consistent with the scale and visual character of surrounding properties. Any improvements to the structure shall conform with the design guidelines for the historic district.

(6) No freestanding ground signs shall be permitted. One wall or hanging business sign limited to eight square feet shall be permitted, provided it also conforms to other applicable historic district design guidelines.

L. Food production. Food production facilities shall meet the following conditions and standards when permitted as a conditional use:

(1) Use limitations:

(a) There shall be no external smells, odors, smoke, glare or otherwise visible or detectable evidence of the food production taking place.

(b) Food production facilities must maintain a minimum twenty-five-foot setback from residential properties and said twenty-five-foot setback shall contain buffer plantings as per § **240-7B**, Specific design standards.

§ 320-29. Affordable housing.

A. Applicability.

(1) The inclusionary housing provisions of this chapter apply to all development proposed to be undertaken on inclusionary sites zoned to provide for an affordable housing component.

(2) In addition to the criteria outlined herein for affordable units, at least 50% of all affordable units in each development shall be affordable to low-income households.

B. Administration. Newton has contracted with the State of New Jersey's Affordable Housing Management Service for administration of affordability controls and other matters related to the marketing, tenancy, sale and monitoring of compliance with various requirements associated with low- and moderate-income housing provisions of this chapter. The Affordable Housing Management Service shall be operational within 90 days for issuance of any certificate of occupancy for a development containing low- and moderate-income housing. Depending on the needs found in Newton, the following services are provided:

(1) Assisting with marketing of Newton's affordable housing units.

- (2) Establishing a screening process for potential home buyers or tenants based on income eligibility.
- (3) Maintaining eligibility lists.
- (4) Referring eligible home buyers and renters to available units.
- (5) Determining maximum resale prices or rents.
- (6) Establishing procedures to ensure that affordable housing units continue to be occupied by and affordable to low- and moderate-income households for the restricted time frame.
- (7) Providing housing counseling services to potential home buyers.
- (8) Assisting households through settlement procedures.

C. Program fee requirements.

- (1) The Affordable Housing Management Service shall require of applicants seeking final approval for development projects with low- and moderate-income dwelling units an initial registration fee at the time of issuance of a certificate of occupancy.
- (2) Upon resale or rental of such units, a renewal fee shall be assessed, payable at the time of issuance of the certificate of occupancy in the case of a resale, or at the time of execution of a rental agreement in the case of a rental unit.
 - (a) The following fee schedule is currently in effect:
 - [1] Initial contract fee (sales and rentals) per new unit, to be charged to developer: \$300.
 - [2] Resale occupancy, to be charged to seller at closing: \$150.
 - (b) The fee schedule will be reassessed annually and revised as needed. The resale fee in effect at the time of each sales transaction closing shall prevail at the next resale.
- (3) Rental occupancies will be charged to the property owner/landlord at the rate of 2% of the individual unit's annual rent at the time of vacancy.
 - (a) Monthly rent of \$325 x 12 x 2% = fee of \$78.

(b) Monthly rate of $\$400 \times 12 \times 2\% =$ fee of \$96.

- (4) Projects receiving funding from the NJDCA Neighborhood Preservation Balanced Housing Program will be charged internally for initial occupancy. All subsequent resales and rentals will be charged as noted above.
- (5) Initial contract fees for sales and rentals will be billed and collected on signing of the agreement with Newton. Newton shall have an option of paying for its entire unit inventory at the prevailing fee at the time of initial contract or of negotiating an installment plan. If payment is delayed, Newton or the developer will be charged the initial contract fee in effect at the time of payment. Subsequent reoccupancy fees will be billed and collected at the time of sale or lease agreement (rental).

D. Affordability criteria.

- (1) In order to ensure that both low- and moderate-income units are affordable by a range of households within each household size, the average price of low- and moderate-income units within an inclusionary development shall be, as best as is practicable, affordable to households at 57.5% of the median income.
- (2) The following range of affordability for purchased housing shall be required for every 20 low- and moderate-income units:

(a) Low:

[1] One at 40% to 42.5%.

[2] Three at 42.6% to 47.5%.

[3] Six at 47.6% to 50%.

(b) Moderate:

[1] One at 50.1% to 57.5%.

[2] One at 57.6% to 64.7%.

[3] One at 64.8% to 68.5%.

[4] One at 68.6% to 72.5%.

[5] Two at 72.6% to 77.5%.

[6] Four at 77.6% to 80%.

- (3) For-sale dwellings. Monthly cost of shelter, to include mortgage (principal and interest), taxes, insurance and homeowner's or condo association fees, shall not exceed 28% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development. Homeowner's or condo association fees for low- and moderate-income units can be increased by an annual percentage not to exceed the CPI housing component only for the region in which the Town of Newton is located.
- (4) For-rental dwellings. Monthly cost of shelter, to include contract rent and utilities (gas, electric, oil, water and sewer), shall not exceed 30% of gross household Section 8 income limits as defined and adjusted from time to time for varied low- or moderate-income household sizes by the United States Department of Housing and Urban Development.
- (5) For purposes of relating affordability to household size, households of the following size shall be assumed to occupy units of the following size, and sale or rental price shall not be affected regardless of the size of the household actually occupying the unit:

| Number of Bedrooms | Number of Occupants |
|--------------------|---------------------|
| 0 | 1 |
| 1 | 2 |
| 2 | 3 |
| 3 | 5 |
| 4 | 7 |

E. Residency preference: affirmative marketing area.

- (1) For rehabilitated housing units, eligible persons who reside in the municipality shall have preference over those who do not reside in the municipality.
- (2) For newly constructed units, there shall be an occupancy preference to low- and moderate-income households that reside or work in the Counties of Sussex, Bergen, Hudson and Passaic.

- (3) For housing unit resales and rental/rerentals, affirmative marketing area and occupancy preference shall be expanded to include eligible persons who live or work in Essex, Morris, Union and Warren Counties.

F. Distribution and location criteria.

- (1) To the extent reasonably attainable, the low- and moderate-income units shall be situated generally so as not to be in less desirable locations than other units in the development and shall be no less accessible to the common open space and public facilities, if provided, than the other units.
- (2) At a minimum, 35% of the low- and moderate-income units shall be two-bedroom units, 15% shall be three-bedroom units, and no more than 20% may be efficiency units.
- (3) No more than 25% of the Town's total fair share obligation after credits and adjustments may be age-restricted for the elderly. The Planning Board shall monitor applicant requests for any age-restricted low- or moderate-income units to ensure any preliminary approval granted does not cause the Town to exceed the total twenty-five-percent cap on such units.

G. Building schedule.

- (1) The low- and moderate-income units shall obtain certificates of occupancy in tandem with the market rate units according to the following schedule:

| Percentage of Market Housing Unit Completed | Minimum Percentage of Low- and Moderate-Income Units Completed |
|--|---|
| Up to 25% | 0% (none required) |
| 25% + 1 unit | 10% |
| 50% | 50% |
| 75% | 75% |
| 90% | 100% |
| 100% | — |

- (2) If the number of low- and moderate-income units to be provided includes a fraction, the number shall be rounded up.

If the number of market-rate-income units permitted includes a fraction, the number shall be rounded down.

H. Affordability requirement for residential conversions.

- (1) In those development applications involving the conversion of a nonresidential structure into a residential use containing more than 25% dwelling units, an inclusionary set-aside requirement of 10% of the total dwelling units to be created from such conversion shall be affordable to low- and moderate-income families according to the guidelines contained herein.
- (2) Development applications seeking a market-rate residential use variance for other than single-family detached dwellings and containing either a gross density of four or more units per gross acre or more than 25 units shall be granted only with a minimum ten-percent set-aside for low- and moderate-income housing. If, however, the use variance grant results in a gross density of six or more units per acre, then the low- and moderate-income housing set-aside requirement shall be increased to 20% of the total units approved.

§ 320-30. Wireless communication facilities.

A. Purpose. The purpose of this section is to create the opportunity to locate state of the art wireless telecommunications facilities in areas where there will be either minimal or no appreciable adverse impact on the character of the Town. The intent of this section is to limit the location of such facilities to areas which are acceptable to communications companies wishing to provide services to ensure competition is fostered among local wireless service providers, to ensure opportunities for economic development are created, and to ensure local government benefits from services by telecommunications providers. Further, the purpose of this section is to establish general guidelines for the siting of wireless communications facilities including towers and antennae. The goals of this section are to:

- (1) Encourage the location of towers in specific areas within the Town.
- (2) Minimize the total number of towers constructed within the Town.
- (3) Strongly encourage the joint use of new and existing tower sites among telecommunications providers.
- (4) Enhance the ability of telecommunications providers to provide such services to the community quickly, effectively and efficiently.
- (5) Exempt from the provisions hereof noncommercial amateur radio antennae and structures which attend private residences.

- (6) Encourage users of towers and antennae to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
- (7) Encourage users of towers and antennae to configure them in a way that minimizes the adverse visual impact of the towers and antennae through careful design, siting, landscape screening, and innovative camouflaging techniques.
- (8) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Town of Newton shall give due consideration to the Master Plan, the Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennae.

B. Definitions. Definitions shall include the following:

ANTENNA

Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), or television signals.

FAA

The Federal Aviation Administration.

FCC

The Federal Communications Commission.

HEIGHT

When referring to a tower or other structure, "height" shall mean the distance measured from the lowest finished grade of the base of the tower to the highest point on the tower or other structure, including the base pad and any antenna or other appurtenances.

PREEXISTING TOWERS and PREEXISTING ANTENNAE

Any tower or antenna for which a zoning permit has been issued prior to the effective date of this section.

STEALTH TOWER STRUCTURE

Man-made trees, clock tower, bell steeples, light poles and other similar alternative design mounting structures that camouflage and/or conceal the presence of antennae or towers.

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for telephones, radio, beepers, pagers, and similar communications purposes including self-supporting lattice towers, guyed towers or monopole towers. The term includes but is not limited to radio and television transmission towers, microwave towers, common carrier towers and cellular or other wireless telephone towers. The term also includes the structure and any support thereof.

WIRELESS COMMUNICATIONS FACILITIES

Any structure or group of structures including but not limited to towers and antennae, designed and constructed for the purpose of facilitating communications for radios, beepers, pagers, mobile telephones or any other similar devices.

C. Conditionally permitted uses.

- (1) Wireless communications facilities including towers and antennae shall be conditionally permitted in the T-1 and T-2 Zones, subject to the following specific conditions and standards:
 - (a) The property shall be owned, leased or otherwise controlled by the Town of Newton, County of Sussex or a public college, provided a license or lease authorizing such antenna or tower has been approved by the applicable agency. The decision to extend such lease shall be vested solely with the applicable agency and shall not be governed by this section.
 - (b) Maximum height shall be 120 feet except where more than one set of commercial transmitting/receiving antennae are collocated on a tower; the total height of the tower shall not exceed 160 feet, measured as the overall height including antennae and other appurtenances.
 - (c) Minimum lot size shall be six acres.
 - (d) Minimum front yard setback shall be 50 feet or the height of the structure, whichever is greater.
 - (e) Minimum side yard setback shall be 50 feet or the height of the structure, whichever is greater.
 - (f) Minimum rear yard setback shall be 50 feet or the height of the structure, whichever is greater.
 - (g) Minimum distance to residential structures, public or private schools, or houses of worship shall be 750 feet or 300% of the height of the tower, whichever is greater.
 - (h) The parcel shall have either:
 - [1] A minimum of 700 linear feet of road frontage on a state highway and a minimum of 100 linear feet of road frontage on a municipal road with a portion of the property being at elevation 835 or higher; or
 - [2] A minimum of 1,500 feet of road frontage on a county road and a minimum of 1,000 linear feet of road frontage on a municipal road with a portion of the property being at elevation 700 or higher.
 - (i) At least one corner of the subject property must be located at the intersection of either a state highway and a municipal road, or a county road and a municipal road.

(j) The minimum height of security fence shall be six feet and the maximum height shall be eight feet, exclusive of barbed wire on top.

(2) Equipment shelters constructed in association with antennae or towers located on properties as described above shall maintain a maximum fifteen-foot distance from the base of the structure and shall be appropriately landscaped to minimize visual impact on neighboring properties. In all other zones in the Town, wireless communications facilities as defined herein shall not be considered as either permitted or conditional uses.

(3) Existing structures located on lands owned or otherwise controlled by the Town of Newton, or private water companies, the County of Sussex, the State of New Jersey or the United States of America may be utilized for the placement of antennae subject to the following conditions:

(a) The added equipment shall not extend higher than 25 feet above the existing structure upon which said equipment is to be placed.

(b) The added equipment shall not protrude more than five feet beyond the existing sides of the structure and must not violate existing setbacks.

(c) Equipment shelters constructed in association with antennae or towers located on an existing structure as described above shall maintain a minimum fifteen-foot distance from the base of the structure and shall be appropriately landscaped to minimize visual impact on neighboring properties.

D. Existing tower and structures. Such towers which predate this section shall be deemed permitted principal uses and may be utilized for the placement of antennae subject to the following conditions:

(1) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same type as the existing tower; unless the Town of Newton allows reconstruction as another type of structure.

(2) An existing tower may be modified or rebuilt to a taller height not to exceed the maximum tower height established by this section.

(3) The height change referred to above may only occur one time per such additional user of the tower, up to a maximum of three times per tower.

(4) A tower which is rebuilt to accommodate the co-location of an additional antenna may be moved on site within 100 feet of its existing location.

(5) After the tower is rebuilt to accommodate co-location, only one tower may remain on site.

- (6) Antennae may be located inside structures if they are not visible from surrounding parcels, and site plan may be waived in this instance.

E. Design standards for towers and antennas. The following design standards shall apply and be considered part of the site plan review process and require approval pursuant to N.J.S.A. 40:55D-50:

- (1) Aesthetics. At the discretion of the appropriate land use board, towers and antennae shall meet the following requirements:

- (a) Towers shall either maintain a galvanized steel finish subject to any applicable standards of the FAA or the appropriate land use board, or shall be painted a neutral color so as to reduce visual obtrusiveness.
- (b) At a lower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings, and shall be located behind existing structures, buildings or terrain features which will shield the buildings and related structures from view.
- (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be at a neutral ratio that is identical to or closely comparable with the color of the supporting structure, so as to make the antenna and related equipment as visually unobtrusive as possible.

- (2) Lighting. No lighting shall be permitted except as follows, which shall be subject to review and approval of the appropriate land use board as part of the site plan application process:

- (a) A building enclosing electronic equipment may have one light at the entrance to the building, provided the light is attached to the building, is focused downward, and is switched so that the light is turned on only when workers are at the building.
- (b) No lighting is permitted on any tower except lighting specifically required by the FAA.
- (c) Any such required lighting shall be focused and shielded to the greatest extent possible so as not to project toward adjacent and nearby properties.

- (3) State and federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other state or federal agency with the authority to regulate such uses. When any such applicable standards and regulations are changed, the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards within six months of the effective date of such standards and

regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of the tower or antenna at the owner's expense.

- (4) Building codes. To ensure the structural integrity of towers, the owner of a tower shall ensure it is maintained in compliance with standards contained in the applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 calendar days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 calendar days shall constitute grounds for the immediate removal of the tower or antenna by the owner, lessee or by the Town at the owner's expense.
- (5) Signs. No signs shall be allowed on an antenna or tower, except as may be required by the FAA or the FCC.
- (6) Electronic equipment buildings. Any proposed building related to electronic equipment shall not be more than 15 feet in height nor more than 700 square feet in area, and only one such building shall be permitted on the lot for each provider of communication services located on the site.
- (7) Parking. Minimum off-street parking shall be permitted as needed and approved by the appropriate land use board.
- (8) Security. All towers shall be designed with anticlimbing devices to prevent unauthorized access. Additionally, any tower supporting cellular or other wireless tower antennas and any building enclosing related electronic equipment shall be surrounded by a fence between six feet and eight feet high, excluding barbed wire. The fence shall be bordered by a double-stepped row of evergreen conifer trees at least eight feet tall at the time of planting and shall be planted 10 feet on center.
- (9) Interference with public safety communications. No cellular or other wireless antenna and/or its related electronic equipment shall interfere with any public safety communications.
- (10) Noise. Noise levels at any property line shall not exceed 50 decibels or current noise standards promulgated by the State of New Jersey, whichever is less.
- (11) Generators. Any generator located on the site shall be enclosed within a portion of the electronic equipment building. Any fuel storage shall be in compliance with federal and state regulations, and shall be limited to fuel stored within the primary fuel tank provided by the manufacturer of the generator. No auxiliary or supplementary fuel storage shall be permitted.

F. General requirements for towers and antennas.

- (1) Principal or accessory use. Antennas and towers shall be considered principal uses. Notwithstanding any other Town land use regulations, an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. If a tower and its appurtenant structures constitute the sole use of the lot, the tower shall be deemed to be the principal use.
- (2) Lot size. For the purpose of determining whether the installation of a tower or antenna complies with the zone district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas may be located on leased parcels within such lot.
- (3) Facility abandonment. In the event that any tower is abandoned or is not operated for a period of one year, the same shall be removed within 60 days' notice by the Town at the sole expense of the owner. The owner shall provide a performance bond and/or other assurances satisfactory to the Planning Board and the Town that will cause the antennas, the supporting tower, the auxiliary building enclosing related electronic equipment, and all other related improvements to the land to be removed at no cost to the Town.

G. Site plan submission and approval requirements. In addition to the applicable documentation and items of information required for major site plans within the Town Land Use Ordinance, the following additional documentation and items of information shall be required as part of any wireless communications facility site plan application for any site in the Town, regardless of whether the proposed site is in an area where such a tower is a permitted use:

- (1) A scaled site plan clearly indicating the location, type and height of the proposed facility, on-site land uses and zoning, adjacent land uses and zoning (including if the site is adjacent to other municipalities), adjacent roadways, proposed means of access, setback from property lines, elevation drawings of the proposed tower and other structures, topography, woodlands, tree lines, buffers or significant topographic terrain features, parking and other information deemed necessary to assess compliance with this section.
- (2) The setback between the proposed tower and the nearest residential unit.
- (3) Documentation by a qualified expert regarding the capacity of the proposed tower for the number of antennas.
- (4) Documentation by a qualified expert that any proposed tower will have sufficient structural integrity to support the proposed antennas and the anticipated future co-located antennas, and will meet the structural standards developed for antennas by the Electronic Industries Association and/or the Telecommunication Industry Association. Such documentation shall also indicate that the applicant shall make available any unoccupied space in an existing equipment

building or shall permit the co-locator to construct its own separate equipment building if existing space is not available.

- (5) A letter of intent by the applicant in a form acceptable to the Town indicating the applicant will share the use of any tower with other approved cellular or other wireless communications services. Additionally, the applicant shall make available to subsequent co-locators any space in the applicant's existing equipment building, or if no additional space is available to address the needs of the proposed co-locator, the applicant shall make available a portion of the site for construction of an additional equipment building for the use of the proposed co-locator.
- (6) A visual sight distance analysis graphically simulating the appearance of any proposed tower and indicating the view from at least five locations around and within one mile of the proposed tower where the tower will be most visible.
- (7) An overall comprehensive plan indicating how the applicant intends to provide full service throughout the Town and, to the greatest extent possible, how its plan to provide full service specifically relates to and is coordinated with the needs of all other providers of cellular or other wireless communications services within the Town. Specifically, the plan shall indicate the following:
 - (a) How the proposed antenna relates to the location of any existing towers within the Town.
 - (b) How the proposed location relates to the anticipated need for additional antennas and supporting towers within and near the Town by the applicant and by other providers of cellular or other wireless communications services within the Town.
 - (c) How the proposed location relates to the objective of allocating the antennas of many different providers of cellular or other wireless communications services on the same tower.
 - (d) How the proposed location relates to the overall objective of providing full cellular or other wireless or other forms of wireless communications services within the Town while, at the same time, limiting the number of towers to the fewest possible.
 - (e) A radio frequency emissions report from a qualified expert detailing latent site emissions.
- (8) Upon completion of the construction of the facility, as-built drawings (plans and profiles) certified by a professional engineer licensed by the State of New Jersey shall be submitted showing all improvements, appurtenances, structures and conditions at the time of preparation.
- (9) No modifications and/or additions to the facilities which are the subject of an approved site plan shall be made without subsequent application to, and review and approval by, the appropriate land use board of an amended site plan

showing such modifications or additions.

(10) The applicant shall protect and preserve by deed restriction which shall be subject to the approval of the land use board attorney, all existing, proposed and/or required buffers, subject to reasonable construction easements to facilitate completion of all proposed improvements.

H. Existing towers. Nonconforming towers or antennas that are damaged or destroyed may not be rebuilt without having to first obtain site plan approval and a conditional use permit, and shall be required to meet the requirements specified above. The type, height, and location of the tower on site shall be of the same type and intensity as the original facility as approved. Building permits to rebuild the facility shall comply with the then applicable building codes, and shall be obtained within 180 days from the date when the facility was damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in § **320-30l**.

I. Abandonment and removal. Any antenna or tower that is not operated for a continuous period of six months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town of Newton notifying the owner of such abandonment. Towers that are rendered obsolete or outdated by advances in technology shall be removed or modified. Failure to remove an obsolete, outdated or abandoned antenna or tower within 90 days shall be grounds for the Town to require removal of the tower or antenna at the owner's or property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower or same is deemed obsolete or outdated by the Town. The Town may condition the issuance of any permit to construct a tower or antenna on the posting of an appropriate performance bond or other suitable guarantee in a face amount of not less than 120% of the cost to remove the tower and restore the property as determined by the Town Engineer for such construction as required under all applicable Town ordinances.

§ 320-31. Administration and enforcement.

A. Administration and enforcement. It shall be the duty of the Zoning Officer to enforce the provisions of this chapter. The Zoning Officer shall investigate any violation or alleged violation of this chapter coming to their attention and shall have, to the extent applicable, all of the powers to exercise all of the functions and duties with respect to this chapter as set forth below.

B. Enforcement by Zoning Officer. The office of Zoning Officer is hereby created. It shall be the duty of the Zoning Officer to enforce this chapter, the provisions of Chapter **240** (Land Subdivision and Site Plan Review), and also the provisions of the land use procedures (Chapter **166** of this revision). Pursuant to that duty, the Zoning Officer shall investigate any violation or alleged violation of this chapter coming to his attention. All applications to the Construction Official for building permits shall be examined by the Zoning Officer for compliance with this chapter and all such permits shall be signed by the Zoning

Officer, as well as the Construction Official. The Zoning Officer shall require two sealed plot plans with an embossed seal, prepared by a New Jersey licensed professional engineer, land surveyor, architect or planner to the extent that said professionals are permitted to prepare such plans by virtue of the provisions of N.J.A.C. 13:40-7.3. Such plans shall be drawn to scale and show the size and other facilities sufficient to enable him to determine whether all zoning requirements are met. The requirement for sealed plot plans may be waived for additions, alterations or accessory structures to existing single-family dwellings, and a sketch prepared by the owner or applicant accepted in lieu thereof. Where there is a question as to the size, location or other zoning requirements, the Zoning Officer may require a sealed location survey. In the event of any material deviation from the approved application, plot plan, or building plans, the Zoning Officer may stop construction by posting a stop-work notice at the building site. The Zoning Officer and the Construction Official, or either of them, shall have the right to enter any building or premises during the daytime in the course of duty, after proper notification to the property owner or occupant of the property.

C. Assistant Zoning Officer.

- (1) Office created. The office of Assistant Zoning Officer is hereby created. There may be, at the discretion of the Town Manager, up to two Assistant Zoning Officers who are appointed by the Town Manager and are current employees of the Town of Newton.
- (2) Compensation. The Assistant Zoning Officer shall not receive any additional compensation other than the compensation fixed for their employed position.
- (3) Duties. It shall be the duty of the Assistant Zoning Officer, under the supervision and control of the Zoning Officer and to the extent not prohibited by law, to perform all the duties of the Zoning Officer in the absence of the Zoning Officer or at such other times as may be permitted by law or as directed by the Town Manager.

D. Zoning permits.

- (1) Required. A zoning permit shall be required in the following instances:
 - (a) Before using or allowing the use of any structure, building, or land or part thereof, hereinafter created, erected, changed, converted or enlarged, wholly or partly.
 - (b) Before changing the use of any building property or part thereof, or allowing a change of use of any building or property, or part thereof.
- (2) Details. A zoning permit shall show that every building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this chapter, or in conformity with the provisions of a variance granted according

to law.

- (3) Issuance; required prior to work. All zoning permits shall be issued in triplicate. One copy shall be posted conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other persons shall perform any building operations of any kind unless the zoning permit covering such operation has been previously issued. Furthermore, no building operations of any kind shall be performed after notification of the revocation of the zoning permit. Every zoning permit for a residence or residential dwelling unit shall set forth the maximum occupancy of such residence or dwelling unit, as determined by the Town of Newton housing code.
- (4) Records. A record shall be kept of all zoning permits issued. The original application therefor shall be kept on file in the same manner as applications for building permits.
- (5) Duration. A zoning permit, unless revoked, shall continue in effect so long as there is no change of use of the premises.
- (6) Time for action on application.
 - (a) The Zoning Officer shall act upon all such applications within 15 days after receipt of a fully filed application, or shall notify the applicant in writing of the refusal to issue such permit and the reasons therefor.
 - (b) Failure to notify the applicant in case of refusal to issue a permit within 15 days shall entitle the applicant for a zoning permit to file an appeal to the Planning Board, as in the case of denial.
- (7) Waiver of plans. The Zoning Officer may waive plans on minor alterations not affecting structural change.
- (8) Fees. The Zoning Officer shall collect a fee for each zoning permit issued as set forth in the Town's Fee Ordinance, *Editor's Note: See Ch. 100, Fees and Costs.* except that if a certificate of occupancy is required, no additional charge shall be made for issuance of a zoning permit.
- (9) Misleading application; violation of permit. If it shall appear at any time to the Zoning Officer that the application or accompanying plans is in any material respect false or misleading, or that the work being done upon the premises is materially different from that called for in the application previously filed with him, or may be in violation of any provision of this chapter, or that the conditions imposed by the Planning Board are not being met within the time or in the manner required by the approving authority, he may forthwith revoke the zoning permit.
- (10) Permit required prior to use. No owner, tenant or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after passage of this chapter, without first obtaining a zoning permit.

(11) Permit for nonconforming use created by change in ordinance. Within one year from the effective date of any subsequent amendment to the Zoning Ordinance of the Town of Newton, the effect of which is to make certain uses nonconforming, the owner of the property upon which any such nonconforming use exists may apply for and obtain at no charge a zoning permit certifying the extent of the nonconforming use and specifying the nonconformity in detail. After the expiration of any such one-year period, a zoning permit may be issued for a nonconforming use only by the Planning Board, after a hearing held on notice to all persons entitled thereto.

E. Certificate of occupancy. It shall be unlawful for an owner to use or permit the use of any building or part thereof, hereafter erected, altered, converted or enlarged, wholly or in part, until a certificate of occupancy shall have been issued by the Construction Official. A fee as set forth in the Town's Fee Ordinance *Editor's Note: See Ch. 100, Fees and Costs.* shall be charged for each certificate of occupancy or duplicate certificate, except as otherwise herein provided.

F. Temporary use permits. The Zoning Officer may issue a temporary use permit for temporary uses of a property as defined by this chapter. Such application for a temporary use must be for a permitted use in the zone in which the property is located and the applicant must have the written permission of the property owner to locate the temporary use on the property. If a temporary use is proposed to be conducted on public property, the Town of Newton or associated governmental entity must approve the use in writing. Temporary uses proposed on sidewalks or in parking lots must meet all applicable fire, safety and ADA standards, rules and regulations.

(1) Duration. Such permits may be issued for a period not to exceed six months and on further application to the Zoning Officer, may be extended for good cause shown for an additional period not to exceed one year. Thereafter, such temporary use permit shall expire and the use so permitted shall be abated. Any temporary structures erected in connection therewith shall be removed.

(2) Temporary certificate of occupancy for sales office. Where a building permit has been issued, a temporary certificate of occupancy for a dwelling house may be granted to a developer to permit such dwelling house to be used temporarily as a sales and management office for the sale of those homes within a subdivision, provided all of the following requirements are met:

(a) The house to be used as such office is built upon a lot which is on part of a subdivision that has been approved by the Planning Board.

(b) The house is of substantially the same quality of construction as those homes to be sold within the subdivision.

(c) No other business than that which is accessory to the management and the sale of lands owned by the developer shall be permitted.

(d) The dwelling house shall meet all other requirements of the zone district in which it is located.

- (3) For temporary nonconforming use incidental to construction. Where a building permit has been issued, the Planning Board may grant a temporary use permit for a nonconforming use incidental to construction projects on the same premises, such as the storage of building supplies and machinery and/or the assembly of building materials. For example, but not by way of limitation, such temporary use permit may be issued to permit the parking of a "construction trailer" on such a site.
- (4) For uses interrupted by casualty. The Planning Board may grant a temporary use permit for the erection and maintenance of temporary structures or buildings for the conduct of permitted uses where such permitted uses have been interrupted by reason of fire or other casualty. Such temporary use permit shall expire at the time the necessary repair or reconstruction of the permanent structures or buildings has been accomplished or within one year, whichever occurs first.
- (5) Pending construction of permanent facilities. The Planning Board may grant temporary use permits for the location of temporary structures in connection with permitted uses on the site of such permitted use; which use is either existing or about to be established, upon the construction of a permanent structure. Such temporary structure shall provide facilities during construction of permanent facilities which are an addition to the permitted use or which will result in permanent facilities to house the permitted use. For example, but not by way of limitation, such temporary use permits may be issued to permit the parking of a trailer housing banking facilities, temporary office space, temporary classroom space and/or temporary warehouse space on such a site.

G. Temporary certificate of occupancy and zoning permits. The Zoning Officer may issue a temporary zoning permit, and the Construction Official may issue a temporary certificate of occupancy, for a use of land or a building which is related to the development of a permitted use of the property. In evaluating any application for such temporary permits, the building or structure in question must meet the minimum requirements as set forth in the New Jersey Uniform Construction Code Act *Editor's Note: See N.J.S.A. 52:27D-119 et seq.* for the issuance of temporary certificates of occupancy, and a bond shall be posted which is sufficient in the judgment of the Zoning Officer or Construction Official as appropriate, which will guarantee the completion of the project. Such temporary permits shall be issued for a period not to exceed six months and may be extended for an additional period not to exceed six months.

H. Sign permit. A sign permit shall be required prior to the erection or alteration of any sign.

I. Records and reports.

- (1) Records. It shall be the duty of the Zoning Officer to keep a record of all applications for zoning permits and of all permits issued, together with a notation of all special conditions involved. He shall file and safely keep copies of all plans

submitted which shall form a part of the record of his office, which shall be available for the use of the Town Council and other officials of the Town.

- (2) Reports. The Zoning Officer shall prepare a monthly report for the Town Council summarizing for the period since his last report all zoning permits issued, complaints of violations received, and action taken by him with respect thereto. Such report shall be in a form and shall contain such information as the Town Council may direct. Copies of such reports shall be made available to the Construction Official and the Tax Assessor.

- J. Violations and penalties. For each and every violation of the provisions of this chapter, the owner, contractor or other person interested as general agent, architect, building contractor, tenant or any other person who commits, takes part in, or assists in any violation of this chapter, or who maintains any building or premises in which any violation of this chapter shall exist, and who shall have refused to abate such violation within five days after written notice shall have been served upon him, either by certified mail or personal service, shall be subject to a fine of not more than \$1,250 or imprisonment in the county jail for a period not exceeding 90 days, or both, at the discretion of the county or judicial officer before whom a conviction may be had. Each and every day that such violation continues after such notices shall be considered a separate and specific violation of this chapter.
- K. Interpretation. In the interpretation and application of the provisions of this chapter, such provisions shall be held to be minimum requirements, adopted for promoting health, safety, and general welfare of the Town of Newton. This chapter shall be read in para materia with the land use procedures chapter *Editor's Note: See Ch. 166, Land Use Procedures.* and, where appropriate, with the land subdivision and site plan chapters. *Editor's Note: See Ch. 240, Land Subdivision and Site Plan Review.*
- L. Pending applications. All applications for development accepted as properly filed prior to the effective date of this chapter may be continued, but any appeals arising out of decisions made on any such application shall be governed by the provisions of the Land Use Procedures Ordinance of the Town of Newton. *Editor's Note: See Ch. 166, Land Use Procedures.*

§ 320-32. Wind and solar energy systems.

- A. Title. This section shall be referred to as the "Wind and Solar Energy Systems Ordinance."
- B. Purpose. The purpose of this section is to establish guidelines for siting small and medium wind energy systems and solar energy systems. The goals are as follows:
- (1) To promote the safe, effective, and efficient use of wind energy systems and solar energy systems in order to reduce the consumption of fossil fuels in producing electricity.

- (2) To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of wind energy systems and solar energy systems.
- (3) To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of wind energy systems and solar energy systems shall be governed.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

AMBIENT SOUND LEVEL

The amount of background noise at a given location prior to the installation of a wind energy system or solar energy system, which may include, but not be limited to, traffic, machinery, lawn mowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A)-weighted scale, as defined by the American National Standards Institute.

ANEMOMETER

A temporary wind-speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind-direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

DECIBEL

Defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A)-weighted scale, as defined by the American National Standards Institute.

DECOMMISSIONING

The process of terminating operation and completely removing WET(s) and all related buildings, structures, foundations, access roads, and equipment.

MEDIUM WIND ENERGY TURBINE (MWET)

A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a nameplate capacity that does not exceed 250 kilowatts. The total height does not exceed 150 feet.

NACELLE

Refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

NET METERING

A special metering and billing agreement between utility companies and their customers which facilitates the connection of renewable energy-generating systems to the power grid.

OCCUPIED BUILDING

A residence, school, hospital, church, public library, business, or any other building used for public gatherings.

OPERATOR

The entity responsible for the day-to-day operation and maintenance of a wind energy system or solar energy system.

OWNER

The individual or entity, including their respective successors and assigns that have equity interest or own the wind energy system or solar energy system in accordance with this section.

PREVAILING WIND

A wind which predominantly blows from one direction.

ROTOR DIAMETER

The cross-sectional dimension of the circle swept by the rotating blades of a WET.

SHADOW FLICKER

The moving shadow, created by the sun shining through the rotating blades of a wind energy turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

SMALL STRUCTURE-MOUNTED WIND ENERGY TURBINE (SSMWET)

Converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The SSMWET has a nameplate capacity that does not exceed 10 kilowatts. The total height does not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.

SMALL TOWER-MOUNTED WIND ENERGY TURBINE (STMWET)

A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment, which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWET has a nameplate capacity that does not exceed 30 kilowatts. The total height does not exceed 120 feet.

SOLAR ENERGY SYSTEM

An energy system which converts solar energy to usable thermal, mechanical, chemical or electrical energy through the use of a solar panel or solar panel array and associated equipment.

SOLAR PANEL

A photovoltaic panel, or hot air or water panel collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR PANEL ARRAY

A collection of multiple solar panels mounted or arranged together, providing energy to the same primary user, as part of a solar energy system.

STRUCTURE

Any building or other structure, such as a municipal water tower, that is a minimum of 12 feet high at its highest point of roof and is secured to frost-footing or a concrete slab.

TOTAL HEIGHT

The vertical distance measured from the ground level at the base of the tower or the ground-mounted solar panel array to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy turbine (WET) or the uppermost extent of any individual solar panel.

TOWER

A freestanding monopole that supports a wind energy turbine (WET).

UPWIND TURBINE

A wind energy turbine (WET) positioned in a manner so that the prevailing wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.

WIND ENERGY TURBINE/WIND ENERGY SYSTEM (WET)

Any structure-mounted, small or medium wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

D. Temporary uses. The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable wind energy system regulations:

(1) Anemometers.

- (a) The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- (b) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and decommissioning that correspond to the size of the wind energy turbine that is proposed to be constructed on the site.
- (c) An anemometer shall be permitted for no more than 13 months.

E. Permitted uses; exemptions.

- (1) A small tower-mounted wind energy turbine (STMWET) over 40 feet in height shall be considered a permitted use in all zoning districts on lots of one acre and greater in size, subject to site plan approval by the Planning Board. STMWET shall not be erected, constructed, installed, or modified as provided in this section unless all required local, state and federal approvals and permits have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.

(2) Small structure-mounted wind energy turbines (SSMWET) and STMWETs up to 40 feet in height shall be a permitted use in all zoning districts, provided the required setbacks can be met. STMWETs up to 40 feet in height must also obtain site plan approval from the Planning Board. SSMWETs shall not be erected, constructed, installed, or modified as provided in this section unless a building permit has been obtained from the Town of Newton and all required state and federal approvals and permits have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.

(3) Solar energy systems. Solar panels shall be permitted as a rooftop installation in any zoning district, provided that they meet the site design standards set forth below and a building permit is obtained from the Town of Newton. Ground arrays shall be permitted on lots of one acre or greater in any zoning district, subject to site plan approval by the Planning Board. A solar energy system shall not be erected unless all local, state and federal permits and approvals have been issued to the owner(s) or operator(s). For parcels located within the Town's Historic District, review by the Historic Commission is required.

(4) Exemptions. Solar energy systems under 20 square feet in size shall be exempt from the requirements of this section.

F. Conditional uses. A medium wind energy turbine (MWET) shall be a conditional use in all nonresidential districts, subject to the following conditions:

(1) Minimum lot size: five acres.

(2) Maximum height: 150 feet.

(3) Quantity. No more than one MWET shall be installed for every 2.5 acres of land included in the parcel.

(4) Setback and separation.

(a) Occupied building setback. The setback from all occupied buildings on the applicant's parcel shall be a minimum of 20 feet, measured from the base of the tower.

(b) Property line setbacks. With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the internal property line setbacks shall be equal to the total height of the MWET as measured from the base of the tower. This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.

(c) Public road setbacks. Each MWET shall be set back from the nearest public road a distance equal to the total height

of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.

- (5) Tower separation. MWET/tower separation shall be based on industry standards and manufacturer recommendation.
- (6) Each MWET, including accessory buildings and other related structures, shall be mounted on a tubular tower of a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET.
- (7) Shadow flicker. The MWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with a direct line of sight to the MWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.

G. Site design requirements.

- (1) All wind energy systems are subject to the following minimum standards:
 - (a) Small structure-mounted wind energy turbines (SSMWET) shall meet the following specific standards:
 - [1] Minimum setbacks. The setback of the SSMWET shall be a minimum of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet. The setback shall be measured from the furthest outward extension of all moving parts.
 - [2] Height. The height of a SSMWET shall not exceed 15 feet, as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.
 - [3] Location. The SSMWET shall not be affixed to the wall on the side of a structure facing a road. The SSMWET shall not be affixed to temporary structures or structures without permanent foundations.
 - [4] Quantity. Not more than one SSMWET shall be installed on any one structure on a particular property.
 - [5] Separation. If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET, and they must be affixed to separate permanent structures.

(b) Small tower-mounted wind energy turbines (STMWET) shall meet the following specific standards:

[1] Minimum lot size: one acre.

[2] Minimum setbacks for STMWET. For lots between one acre and three acres, wind turbines shall be set back from all property lines a distance equal to 100% of the height of the structure, including the blades. For lots larger than three acres, wind turbines shall be set back from all property lines a distance equal to 100% (remove 200% to be consistent) of the height of the structure, including the blades. No portion of the wind generator shall extend beyond any overhead utility lines, unless written permission is granted by the utility that owns and/or controls the lines.

[3] Height. The total height of a STMWET shall not exceed 120 feet.

[4] Location. The STMWET shall only be located in a rear yard of a property that has an occupied building.

[5] Occupied building setback. The setback from all occupied buildings on the applicant's parcel shall be a minimum of 20 feet, measured from the base of the tower.

[6] Other setbacks. The setback shall be equal to the total height of the STMWET, as measured from the base of the tower, from the property line, public right-of-way, public easement, or overhead public utility lines. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the wind turbine.

[7] Quantity. No more than one STMWET shall be installed on any parcel of property.

(c) Upwind turbines shall be required.

(d) Wind turbines shall not be permitted in any front yard.

(e) Visual appearance.

[1] A wind energy system, including accessory buildings and related structures, shall be a nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the wind energy system.

[2] A wind energy system shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or as otherwise necessary for the reasonable safety and security thereof.

[3] Wind energy systems shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.

[4] All ground equipment shall be screened from view to the maximum extent practical with landscaping and/or decorative fencing.

- (f) Ground clearance. The lowest extension of any blade or other exposed moving component of a wind energy system shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the tower for a SSMWET and STMWET, 50 feet for a MWET) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the wind energy system.
 - (g) Noise. Noise emanating from the operation of a wind energy system shall not exceed, at any time, the lowest ambient sound level that is present up to 5 dB(A) between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a wind energy system shall not exceed, at any time, the lowest ambient noise level, plus 5 dB(A), that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a nonresidential or nonagricultural use parcel.
 - (h) Vibration. Vibrations shall not be produced which are humanly perceptible beyond the property on which a wind energy system is located.
 - (i) Guy wires. Guy wires shall not be permitted as part of a wind energy system over 35 feet in height.
 - (j) Electrical system. All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement. The electrical system shall meet National Electric Code standards.
- (2) Solar panels installed as a rooftop installation shall meet the following standards: The solar panels shall not exceed a height of eight inches from the rooftop. In no event shall the placement of the solar panels result in a total height, including building and panels, greater than what is permitted in the zoning district in which they are located for the principal building.
- (3) Solar panels shall be permitted as ground arrays in accordance with the following:
- (a) All ground arrays shall be set back a distance of 20 feet from all property lines in a residential zoning district or in

conformance with the bulk standards for accessory structures in commercial districts as provided in this chapter.

- (b) Ground arrays shall not be permitted in a front yard.
- (c) Ground arrays shall be located so that any glare is directed away from an adjoining property.
- (d) Ground arrays shall not exceed a height of 15 feet.
- (e) Ground arrays shall be screened from view with landscaping buffers and/or decorative fencing.

(4) Permit application requirements:

- (a) Name of property owner(s), address, and parcel number.
- (b) A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the solar or wind energy system, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, roads and contours.
- (c) The proposed type and height of the solar energy system, SSMWET or STMWET to be constructed, including the manufacturer and model, product specifications, including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter (if applicable), and a description of ancillary facilities.
- (d) Documented compliance with the noise requirements set forth in this section.
- (e) Documented compliance with applicable local, state and national regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- (f) Proof of applicant's liability insurance.
- (g) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator, and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- (h) Other relevant information as may be reasonably requested.
- (i) Signature of the applicant.

- (j) In addition to the permit application requirements previously listed, a SSMWET application shall also include the total proposed number of SSMWETs.
- (k) In addition to the permit application requirements previously listed, a STMWET and MWET application shall also include a description of the methods that will be used to perform maintenance on the STMWET/MWET and the procedures for lowering or removing the STMWET/MWET in order to conduct maintenance.

(5) Site plan requirements.

- (a) Site plan drawing. All applications for a ground array solar energy system, SMWET or MWET conditional use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:
 - [1] Existing property features, to include the following: property lines, physical dimensions of the property, land use, zoning district, contours, setback lines, rights-of-way, public and utility easements, public roads, access roads (including width), sidewalks, nonmotorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties, as well as the location and use of all structures and utilities within 300 feet of the property.
 - [2] Location and height of all proposed solar panels, SWETs or MWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical substations, and other aboveground structures and utilities associated with the proposed energy system.
 - [3] Additional details and information as required by the special use requirements of this chapter or as requested by the Planning Board.
- (b) Site plan documentation. The following documentation shall be included with the site plan:
 - [1] The contact information for the owner(s) and operator(s) of the energy system, as well as contact information for all property owners on which the energy system is located.
 - [2] A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed energy system. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
 - [3] Identification and location of the properties on which the proposed energy system will be located.

- [4] The proposed number, representative types and height of each solar array, SWET or MWET to be constructed, including their manufacturer and model, product specifications, including maximum noise output (measured in decibels), total rated capacity, rotor diameter (if applicable), and a description of ancillary facilities.
- [5] Documents shall be submitted by the developer/manufacturer confirming specifications for SMWET or MWET tower separation.
- [6] Documented compliance with the noise and shadow flicker requirements set forth in this section.
- [7] Engineering data concerning construction of the solar panels, SWET or MWET, and its base or foundation, which may include, but not be limited to, soil boring data.
- [8] A New Jersey licensed professional engineer shall certify that the solar panels, SWET or MWET meets or exceeds the manufacturer's construction and installation standards.
- [9] Anticipated construction schedule.
- [10] A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the solar panels, SWET or MWET to conduct maintenance, if applicable.
- [11] Documented compliance with applicable local, state and national regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, and communications regulations. The SWET or MWET shall comply with Federal Aviation Administration (FAA) requirements.
- [12] Proof of applicant's liability insurance.
- [13] Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator, and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- [14] Other relevant information as may be requested by the Planning Board to ensure compliance with the requirements of this section.
- [15] Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the conditional use permit.
- [16] A written description of the anticipated life of each solar panel, SWET or MWET; the estimated cost of

decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the energy system becomes inoperative or nonfunctional.

[17] The applicant shall submit a decommissioning plan that will be carried out at the end of the solar panel's, SWET's or MWET's useful life and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.

[18] The Town of Newton reserves the right to review all maintenance plans and bonds under this section to ensure that all conditions of the permit are being followed.

[19] Signature of the applicant.

(6) Safety requirements.

(a) If the solar energy system or wind energy system is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

(b) The wind energy system shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades and other wind energy components, unless the manufacturer certifies that a braking system is not necessary.

(c) A clearly visible warning sign regarding voltage shall be placed at the base of the wind turbine or solar panel ground array.

(d) The structural integrity of the wind energy system shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," and/or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing" or any similar successor standards.

(e) MWETs shall also meet the following additional safety requirements:

[1] Security measures need to be in place to prevent unauthorized trespass and access. Each MWET shall not be climbable up to 15 feet above ground surfaces. All access doors to MWETs and electrical equipment shall be locked and/or fenced, as appropriate, to prevent entry by nonauthorized person(s).

[2] All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.

[3] Each MWET shall have one sign, not to exceed two square feet in area, posted at the base of the tower and on the security fence, if applicable. The sign shall contain at least the following:

[a] Warning of high voltage.

[b] Manufacturer's and owner's/operator's name.

[c] Emergency contact numbers (list more than one number).

[d] The structural integrity of the MWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.

(7) Signal interference. The wind energy system shall not interfere with communications systems, such as, but not limited to, radio, telephone, television, satellite, or emergency communications systems.

(8) Decommissioning.

(a) The solar energy system or wind energy system owner(s) or operator(s) shall complete decommissioning within 12 months after the end of the useful life of the system. Upon request of the owner(s) or assigns of the solar energy system or wind energy system, and for a good cause, the Town of Newton Planning Board may grant a reasonable extension of time. The solar energy system or wind energy system will presume to be at the end of its useful life if no electricity is generated for a continuous period of 12 months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

(b) If the solar energy system or wind energy system owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Town of Newton Council may designate a contractor to complete decommissioning, with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the solar energy system or wind energy system is not owned by the property owner(s), a bond must be provided to the Town of Newton for the cost of decommissioning each solar energy system or wind energy system.

(c) In addition to the decommissioning requirements listed previously, the STMWET shall also be subject to the following:

[1] Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.

[2] The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas shall not be restored.

(d) In addition to the decommissioning requirements listed previously, the MWET shall also be subject to the following:

[1] Decommissioning shall include the removal of each MWET, buildings, electrical components, and roads to a depth of 60 inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds.

[2] All access roads to the MWET shall be removed, cleared, and graded by the MWET owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road. The Town will not be assumed to take ownership of any access road unless through official action of the Town Council.

[3] The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the MWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas not be restored.

[4] If the MWET owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Town may designate a contractor to complete decommissioning, with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the MWET is not owned by the property owner(s), a bond must be provided to the Town for the cost of decommissioning each MWET.

(9) Public inquiries and complaints. Should an aggrieved property owner allege that a solar energy system or wind energy system is not in compliance with the requirements of this section, the procedure shall be as follows:

(a) Noise complaints.

[1] Notify the Town's Zoning Officer in writing regarding concerns about noise level.

- [2] If the complaint is deemed sufficient by the Town's Zoning Officer to warrant an investigation, the Town's Zoning Officer will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise-level test conducted by a certified acoustic technician to determine compliance with the requirements of this section.
- [3] If the test indicates that the noise level is within this section's noise requirements, the Town will use the deposit to pay for the test.
- [4] If the solar energy system or wind energy system owner(s) is in violation of this sections's noise requirements, the owner(s) shall reimburse the Town for the cost of the noise-level test and take immediate action to bring the solar energy system or wind energy system into compliance, which may include ceasing operation of the system until section violations are corrected. The Town will refund the deposit to the aggrieved property owner.

(b) Shadow flicker complaints for MWETs.

- [1] Notify the Town Zoning Officer in writing regarding concerns about the amount of shadow flicker.
- [2] If the complaint is deemed sufficient by the Town Zoning Officer to warrant an investigation, the Town Zoning Officer will request the owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance with the requirements of this section.
- [3] If the MWET owner(s) is in violation of this section's shadow flicker requirements, the owner(s) shall take immediate action to bring the MWET into compliance, which may include ceasing operation of the WET until the section violations are corrected.

(10) Certification and compliance.

- (a) The Town must be notified of a change in ownership of a MWET or a change in ownership of the property on which the MWET is located.
- (b) The Town reserves the right to inspect any MWET in order to ensure compliance with this section. Any cost associated with the inspections shall be paid by the owner/operator of the wind energy system.
- (c) Proof of compliance with the noise standards is required within 90 days of the date the MWET becomes operational. Sound shall be measured by a third-party, qualified professional.

§ 320-33. Prohibited uses.

The following land uses are prohibited in all districts of the Newton Form-Based Code Area, as well as any uses determined by the Board to be of similar nature to the prohibited uses listed below:

- A. Tattoo parlors.
- B. Sexually oriented businesses.
- C. Pawn shops and check-cashing businesses.
- D. Drug paraphernalia shops or head shops.
- E. Drug rehabilitation clinics or substance abuse treatment facilities.
- F. Boardinghouses.
- G. Rooming houses.
- H. Junkyards.
- I. Self-storage facilities.
- J. Outdoor furnaces and accessory structures containing outdoor furnaces.