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#88-20

Barney S. Heath
Director

MEMORANDUM

DATE: March 20, 2020

TO: Councilor Deborah Crossley, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
Jennifer Caira, Deputy Director of Planning & Development
Zachery LeMel, Chief of Long Range Planning

RE: **#88-20 Discussion and review relative to the draft Zoning Ordinance**
DIRECTOR OF PLANNING requesting review, discussion, and direction relative to the draft Zoning Ordinance.
Other docket items to be taken up within the context of Zoning Redesign include #30-20, #38-20, and #148-20

MEETING: March 23, 2020

CC: City Council
Planning Board
John Lojek, Commissioner of Inspectional Services
Alissa O. Giuliani, City Solicitor
Jonathan Yeo, Chief Operating Officer

As a reminder, the upcoming ZAP Committee meeting will highlight case studies that visualize how the proposed Zoning Ordinance, and the use of Building Types, achieve the City goals of promoting a diverse array of housing options for Newton's current and future residents and reducing the vulnerability to speculative tear downs. In addition, the case studies will showcase key updates and new components of the proposed Zoning Ordinance (lot coverage, measuring basements/attics, etc.). Where appropriate City staff will provide side-by-side comparisons of the current and proposed ordinances.

Given the move to all virtual meetings City staff would like to reshare the relevant reading materials with the ZAP Committee, City Council, and anyone who attends, so it can be easily accessible during the meeting this coming Monday - March 23rd, 2020.

Additional Reading

In preparation for the this meeting, and subsequent meetings discussing Article 3, committee members should read the Planning Department's March 14, 2020 memo, Article 3 Sec. 3.2 and Article 2 Sec. 2.1-2.8, Newton's Pattern Book pg. 252-261, and the Build Out Analysis Memo dated February 25, 2019. Article 3, Article 2, and Article 9 (all redlined) are attached to this memo.

Planning Department Memo – March, 14, 2020

<http://www.newtonma.gov/civicax/filebank/documents/102335>

Build Out Analysis Memo – February 25, 2019

<http://www.newtonma.gov/civicax/filebank/documents/95483>

Newton's Pattern Book

<http://www.newtonma.gov/civicax/filebank/documents/92259>

Attachments

Attachment A Article 3 – Residence Districts (redlined)

Attachment B Article 2 – General Standards (redlined)

Attachment C Article 9 – Use Regulations (redlined)

Article 3 Residence Districts

3.1. Residence Districts

The provisions of Article 3 apply to all real property within the Residence Districts as shown on the Newton Zoning Map.

3.1.1. Development Review.

Development on any lot, by right or by discretionary permit, requires the submittal of development review materials to the specified development review body as required in Article 11.

- A. A pre-submittal discussion or meeting with the Planning Department and/or Inspectional Services Department is recommended for all development (See Sec. 11.2.2).
- B. Proposed development may or may not necessitate Site Plan Approval, a Special Permit or a Variance based on the nature of the proposal. In such cases, additional development review is required in accordance with Article 11.
- C. Upon completion of the required development review or verification that no additional development review is necessary, the Commissioner of ISD shall issue a Zoning Consistency Determination indicating compliance with the provisions and procedures of this Ordinance.
- D. The Special Permit Granting Authority is determined by the scale of the proposed development in accordance with the table below, or by the uses on the lot (See Article 9).

	Scale at which the Planning Board <u>is the</u> Special Permit Granting Authority	Scale at which the City Council is the Permit Granting Authority
Number of Residential Units on the Lot	Up to 20 units	21 units or more
Square footage of Commercial Space on the Lot	Up to 20,000 sf of floor area	More than 20,000 sf of floor area
Varying the dimensional standards of a building type (i.e. SP for additional story, additional footprint)	Up to 10,000 sf of additional floor area	More than 10,000 sf of additional floor area
Increase in Lot Coverage	Up to 10,000 sf of additional lot coverage	More than 10,000 sf of additional lot coverage

3.1.2. Residence 1 District (R1)

A. Context Description.

The Residence 1 District is composed of neighborhoods characterized typically by larger homes on larger parcels of land. These neighborhoods consist almost entirely of single unit residences and frequently feature architecturally distinctive homes and significant areas of landscaping and trees. Where other uses exist or may be proposed, the City would like to preserve the existing building stock by allowing, to a limited extent, for existing buildings to be converted to multiple units or to a civic institution.

B. Purpose.

1. To preserve the scale of these neighborhoods throughout the City.
2. To permit the development of single unit detached residential buildings on individual lots.
3. To permit contextual modifications of existing single unit detached residential buildings.
4. To create a mechanism for the preservation and continued use of architecturally significant homes.

C. Lot Standards.

The following table contains lot standards for the Residence 1 District:

Lot Characteristics	
Frontage:	Min. 80 ft, Max. -
Lot Depth:	N/A
Lot Coverage:	25% Max; +10% by SP (See Sec. 2.3.2)

D. Setback Standards

The following table contains setback standards for the Residence 1 District:

Setbacks	Min	Max
Front:	25 ft	-
Side:	20 ft	-
Rear:	40 ft	-
Frontage Buildout	-	-

E. Building Types.

The following principal building types are permitted in the Residence 1 District:

1. House A (Sec. 3.2.3)
2. House B (Sec. 3.2.4)
3. House C (Sec. 3.2.5)
4. House D (Sec. 3.2.6)
5. Civic Building (Sec. 3.2.14)

F. Alternate Lot/Building Configurations.

The following alternate lot/building configurations are permitted in the Residence 1 District:

1. Rear Lots (Sec. 3.5.1)
2. Multi-Unit Conversion (Sec. 3.5.2)
3. Courtyard Clusters (Sec. 3.5.3)

G. Allowed Uses.

Uses permitted in the Residence 1 District are described in Sec. 3.6 and subject to further restrictions as described in each building type.

3.1.3. Residence 2 District (R2)

A. Context Description.

The Residence 2 District contains quintessentially suburban neighborhoods with ample lawns and single-unit homes, developed primarily in the 20th Century in the spaces between Newton’s villages. The intent of this district is to preserve neighborhood character and to create predictability for homeowners in what they may do with their homes. Many of these neighborhoods are remote from the walkable village centers of the City and therefore do not have nearby gathering places, shops, or services.

B. Purpose.

1. To preserve the scale of these neighborhoods throughout the city.
2. To permit the development of single unit detached residential buildings on individual lots.
3. To permit contextual modifications of existing single unit detached residential buildings.
4. In limited circumstances, to retain or allow neighborhood serving commercial uses in order to enhance walkability and sustainability.
- ~~4.5. To promote, through building and lot design, community connections.~~

C. Lot Standards.

The following table contains lot standards for the Residence 2 District:

Lot Characteristics	
Frontage:	60 ft Min, 110 ft Max
Lot Depth:	-
Lot Coverage:	30 35% Max; +10% by SP (See Sec. 2.3.2)

D. Setback Standards.

The following table contains setback standards for the Residence 2 District:

Setbacks	Min	Max
Front:	Contextual Front Setback (See 3. 45 .1A) Absolute Min: 20 19 ft	40 ft
Side:	12.5 10 ft	-
Rear:	30 20 ft	-
Frontage Buildout	greater of 12 ft or 25% of the frontage; non-conforming lots exceeding the max. frontage have a min. of 27.5 ft	-

E. Building Types.

1. The following principal building types are permitted in the Residence 2 District:

- | | |
|---|---------------------------------------|
| a. House B (3.2.4) | b. House C (3.2.5) |
| c. Civic Building (3.2.14) House D (3.2.6) | d. Civic Building (3.2.14) |

2. Additional Criteria for House D: The following principal building types are permitted, subject to a Special Permit, in the Residence 2 District:

a. House D (3.2.6)

~~B.—~~

~~a.—The House D building type may only be utilized on a lot if there are at least 3 House D buildings within 500 linear feet, measured from the edges of the front lot line along the street.~~

~~b.—Establishing a new House D in the R2 district requires Site Plan Approval to confirm the above criteria have been met.~~

~~i.—In reviewing a proposed new House D, the Director of Planning and Development may refer the proposal to the Urban Design Commission and may condition the property based on recommendations of the UDC.~~

~~e.—Notwithstanding the above requirements, a new House D may be established on a lot that does not meet the above criteria by Special Permit.~~

d.b. Review Criteria. In its discretion to approve or deny a special permit authorizing a new House D, the Special Permit Granting Authority must find that the application meets the following criteria:

- i. The criteria for all Special Permits specified in Sec. 11.4.3.
- ii. Design and landscaping is compatible with the neighborhood and adjacent properties.
- iii. Methods to address energy efficiency are sufficiently employed.

F. Alternate Lot/Building Configurations.

The following alternate lot/building configurations are permitted in the Residence 2 District:

- 1. Rear Lots (Sec. 3.5.1)
- 2. Multi-Unit Conversion (Sec. 3.5.2)
- 3. Courtyard Clusters (Sec. 3.5.3)

G. Allowed Uses.

Uses permitted in the Residence 2 District are described in Sec. 3.6 and subject to further restrictions as described in each building type.

3.1.4. Residence 3 District (R3)

A. Context Description.

The Residence 3 District includes ~~suburban~~ neighborhoods composed of single, two, and three-unit homes, frequently within walking distance to transit and activity centers. The intent of this district is to preserve neighborhood character, increase predictability, and integrate homes in two and three-unit buildings into the fabric of the neighborhoods.

B. Purpose.

1. To preserve the scale of these neighborhoods throughout the City.
2. To permit the development of single and multi-unit detached residential buildings on individual lots.
3. To permit contextual modifications of existing residential buildings.
4. In limited circumstances, to retain or allow neighborhood serving commercial uses in order to enhance walkability and sustainability.
- ~~4.5. To promote, through building and lot design, community connections.~~

C. Lot Standards.

The following table contains lot standards for the Residence 3 District:

Lot Characteristics	
Frontage:	50 40 ft Min, 100 ft Max
Lot Depth:	-
Lot Coverage:	50 60% Max; +10% by SP (See Sec. 2.3.2)

D. Setback Standards.

The following table contains setback standards for the Residence 3 District:

Setbacks	Min	Max
Front:	Contextual Front Setback (See 3.45.1A) Absolute Min: 10 5 ft	35 ft
Side:	10 7.5 ft	-
Rear:	20 15 ft	-
Frontage Buildout	greater of 12 ft or 25% of the frontage; non-conforming lots exceeding the max. frontage have a min. of 25 ft	

E. Building Types.

1. The following principal building types are permitted in the Residence 3 District:
 - a. House B (3.2.4)
 - b. House C (3.2.5)
 - c. Two-Unit Residence (3.2.7)
 - d. Civic Building (3.2.14)
 - ~~e. Apartment House (3.2.8)~~
 - ~~f. Civic Building (3.2.14)~~
2. The following principal building types are permitted, subject to a Special Permit, in the Residence 3 District:
 - a. 3-Unit Building (3.2.8)
- ~~2. Additional Criteria for 3-Unit Building, Apartment House and Small Apartment Building.~~

- ~~a. The Apartment House and Small Apartment Building building types may only be utilized on a lot if there are at least 3 of the same type (apartment house or small apartment building respectively) within 500 linear feet along the street, measured from the lot edge.~~
- ~~b. Establishing a new Apartment House3-Unit Building or Small Apartment Building in the R3 district requires Site Plan Approval, to confirm the above criteria have been met.~~
 - ~~i. In reviewing a proposed new Apartment House3-Unit Building or Small Apartment Building, the Director of Planning and Development may refer the proposal to the Urban Design Commission (see Sec. 11.X) and may condition the property to require additional screening if needed.~~
- ~~c. Notwithstanding the above requirements, a new Apartment House3-Unit Building or Small Apartment Building may be established on a lot that does not meet the above criteria by Special Permit.~~
- ~~d.b. Review Criteria.~~ In its discretion to approve or deny a special permit authorizing a new apartment house or small apartment building, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Design is compatible with the scale of the neighborhood and adjacent properties.
 - iii. Strategies to address transportation demand are sufficiently employed.

F. Alternate Lot/Building Configurations.

The following alternate lot/building configurations are permitted in the Residence 3 District:

1. Rear Lots (Sec. 3.5.1)
2. Multi-Unit Conversion (Sec. 3.5.2)
3. Courtyard Clusters (Sec. 3.5.3)

G. Allowed Uses.

Uses permitted in the Residence 3 District are described in Sec. 3.6 and subject to further restrictions as described in each building type.

3.1.5. Residence 4 District (R4)

A. Context Description.

The Residence 4 District includes neighborhoods composed mostly of multi-unit buildings, with single, two, and three-unit homes as well, frequently within walking distance to transit and activity centers. The intent of this district is to provide a transition between the Residence 1, 2, and 3 Districts and the Neighborhood General Districts and Village Districts when mapped accordingly.

B. Purpose.

1. To allow middle-scale forms of development that create greater housing choices and opportunities while preserving the overall scale of these neighborhoods throughout the City.
2. To permit the development of single and small multi-unit detached residential buildings on individual lots.
3. To permit contextual modifications of existing residential buildings.
4. In limited circumstances, to retain or allow neighborhood serving commercial uses in order to enhance walkability and sustainability.
5. To promote, through building and lot design, community connections.

C. Lot Standards.

The following table contains lot standards for the Residence 4 District:

<u>Lot Characteristics</u>	
<u>Frontage:</u>	<u>40 ft Min, 100 ft Max</u>
<u>Lot Depth:</u>	<u>=</u>
<u>Lot Coverage:</u>	<u>60% Max; +10% by SP (See Sec. 2.3.2)</u>

D. Setback Standards.

The following table contains setback standards for the Residence 4 District:

<u>Setbacks</u>	<u>Min</u>	<u>Max</u>
<u>Front:</u>	<u>Contextual Front Setback (See 3.4.1A)</u> <u>Absolute Min: 5 ft</u>	<u>35 ft</u>
<u>Side:</u>	<u>7.5 ft</u>	<u>=</u>
<u>Rear:</u>	<u>15 ft</u>	<u>=</u>
<u>Frontage Buildout</u>	<u>greater of 12 ft or 25% of the frontage;</u> <u>non-conforming lots exceeding the max.</u> <u>frontage have a min. of 25 ft</u>	

E. Building Types.

1. The following principal building types are permitted in the Residence 4 District:

<u>a. House B (3.2.4)</u>	<u>b. House C (3.2.5)</u>
<u>c. Two-Unit Residence (3.2.7)</u>	<u>d. 3-Unit Building (3.2.8)</u>
<u>e. Civic Building (3.2.14)</u>	
2. The following principal building types are permitted, subject to a Special Permit, in the Residence 4 District:
 - a. 4-8 Unit Building (3.2.10)

b. Review Criteria. In its discretion to approve or deny a special permit authorizing a new 4-8 Unit Building, the Special Permit Granting Authority must find that the application meets the following criteria:

- i. The criteria for all Special Permits specified in Sec. 11.4.3.
- ii. Design is compatible with the scale of the neighborhood and adjacent properties.
- iii. Strategies to address transportation demand are sufficiently employed.

F. Alternate Lot/Building Configurations.

The following alternate lot/building configurations are permitted in the Residence 4 District:

- 1. Rear Lots (Sec. 3.5.1)
- 2. Multi-Unit Conversion (Sec. 3.5.2)
- 3. Courtyard Clusters (Sec. 3.5.3)

G. Allowed Uses.

Uses permitted in the Residence 4 District are described in Sec. 3.6 and subject to further restrictions as described in each building type.

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3.1.5.3.1.6. Neighborhood General District (N)

A. Context Description.

Within a short walk of the amenities, mixture of uses, and transit options found in Newton’s village centers, the Neighborhood General District serves as a transition from the village centers to the adjoining neighborhoods. With easy access to the above amenities, these areas are appropriate for a wider range of housing types, consistent in scale with the neighboring single and two-unit homes, including small multi-unit residential buildings and townhouses, as well as a range of small-scale neighborhood-serving commercial spaces.

B. Purpose.

- ~~1.4.~~ To allow middle-scale forms of development that create greater housing choices and opportunities while preserving the overall scale of these neighborhoods throughout the City.
- ~~2.5.~~ To permit the development of single and multi-unit detached residential buildings on individual lots.
- ~~3.6.~~ To permit townhome-style buildings.
- ~~4.7.~~ To permit contextual modifications of existing buildings.
- ~~8.~~ ~~In limited circumstances,~~ To retain or allow neighborhood serving commercial uses in order to enhance walkability and sustainability.
- ~~5.9.~~ To promote, through building and lot design, community connections.

C. Lot Standards.

The following table contains lot standards for the Neighborhood General District:

Lot Characteristics	
Frontage:	50 30 ft Min, 100 ft Max
Lot Depth:	-
Lot Coverage:	70 65% Max; +10% by SP (See Sec. 2.3.2)

D. Setback Standards.

The following table contains setback standards for the Neighborhood General District:

Setbacks	Min	Max
Front:	Contextual Front Setback (See 3. 45 .1A) Absolute Min: 50 ft	25 ft
Side:	107.5 ft	-
Rear:	2045 ft	-
Frontage Buildout	greater of 12 ft or 40% of the frontage; nonconforming lots exceeding the max. frontage have a min. of 40 ft	

E. Building Types.

1. The following principal building types are permitted in the Neighborhood General District:
 - a. House B (Sec. 3.2.4)
 - b. House C (Sec. 3.2.5)
 - c. Two-unit residence (Sec. 3.2.7)
 - d. ~~Apartment House~~3-Unit Building (Sec. 3.2.8)

- e. Townhouse Section (Sec. 3.2.9)
 - f. ~~Small Apartment~~4-8 Unit Building (Sec. 3.2.10)
 - g. Shophouse (Sec. 3.2.11)
 - h. Small Shop (Sec. 3.2.13)
 - i. Civic Building (Sec. 3.2.14)
2. The following principal building types are permitted, subject to a Special Permit ~~from the Planning Board~~, in the Neighborhood General District:
- a. Small Multi-Use Building (Sec. 3.2.12)

F. Alternate Lot/Building Configurations.

- 1. The following alternate lot/building configurations are permitted by Special Permit in the Neighborhood General District:
 - a. Rear Lots (Sec. 3.5.1)
 - b. Multi-Unit Conversion (Sec. 3.5.2)
 - c. Courtyard Clusters (Sec. 3.5.3)
- 2. A Multi-Building Assemblage (Sec. 3.5.4) is permitted in the Neighborhood General District. Depending on the scale of the project, a Special Permit may be required.

G. Review Criteria. In its discretion to approve or deny a special permit authorizing a new small multi-use building or a multi-building assemblage, the Special Permit Granting Authority must find that the application meets the following criteria:

- 1. The criteria for all Special Permits specified in Sec. 11.4.3.
- 2. Design and management strategies achieve compatibility with the neighborhood and adjacent residential properties.
- 3. Transportation management and design strategies intend to reduce reliance on single-occupant automobiles.
- 4. On and off-street parking available provides an adequate supply of parking (drawing guidance from existing standards in the Newton Zoning Ordinance) while also minimizing the presence of large parking areas and extensive areas of pavement.
- 5. Preservation and/or enhancement of landscaped areas and trees, especially to serve as a buffer to neighboring lots.

H. Allowed Uses.

Uses permitted in buildings in the Neighborhood General District are described in Sec. 3.6 and subject to further restrictions as described in each building type.

3.2. Building Types.

3.2.1. Introduction to Building Types.

This Ordinance uses building types as a tool to regulate development within each zoning district.

- A. Building types are a way of organizing standards for the size, shape, and scale of principal buildings. Standards should be read in conjunction with Article 2, which includes rules of measurement.
- B. Building type standards apply to all principal buildings, whether new construction, renovation or addition to an existing structure, and redevelopment.
- C. In contrast to applying generic dimensional standards to all principal structures, the use of Building Types as a regulatory tool allows dimensional standards to differ from one class or kind of structure to another within the same district.
- D. The selection of building types permitted within a zoning district combine with the mix of permitted uses to define the intended character of each zoning district.

3.2.2. Special Permit to Vary the Dimensional Standards of a Building Type.

A Special Permit may be granted to vary the dimensions of a building type within the standards specified and in accordance with Sec. 11.4.

- A. Special Permits to vary the dimensions of a building type require review by the Urban Design Commission.
- B. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a variation in the dimensional standards of a building type, the Special Permit Granting Authority must find that the application meets the following criteria:
 1. The criteria for all Special Permits specified in Sec. 11.4.3.
 2. Design strategies achieve compatibility with the scale of neighboring properties.
 3. Design strategies break up the massing and modulate the roof line.

3.2.3. House A

A. Description.

A one-unit house with a large footprint and up to 2.5 stories. House A building types are common in several Newton neighborhoods like Chestnut Hill, Waban, and West Newton Hill. House A types may have been built in several eras of Newton’s development history from the era when Newton was a destination for country estates to the modern development period of the 1980s to the present.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
25 ft	100 ft	100 ft	2,400 2,500 sf SP: 3,000 sf	2.5 stories	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory design review (See Sec. 3.2.2)

C. Fenestration on the Front Elevation.

- ~~1.—Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2.—Upper Story Fenestration: 10% Minimum, 70% Maximum~~

D. Roof Types.

All Roof Types are permitted.

E. Additional Standards.

1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
2. Maximum of 1 Residential Unit; option for Multi-unit conversion [according to\(see Sec. 3.56.2.\)](#)
3. Outdoor Amenity Space: 1/dwelling unit

3.2.4. House B

A. Description.

A one-unit house with a medium footprint and up to 2.5 stories by-right. House B building types can be found throughout Newton. The House B type includes typical midscale Victorian homes close to village centers, and midscale Colonial homes frequently built in the era of suburban infill between Newton’s historic village centers.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
15 ft	65 ft	90 ft	1,400+600 sf SP: 2,000+200 sf	R1, R2: 2.5 stories SPR3, N: 3 stories	Max 12 ft SP: 14 ft
SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)					

~~C. Fenestration on the Front Elevation.~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2. Upper Story Fenestration: 10% Minimum, 70% Maximum~~

~~D. Roof Types.~~

All Roof Types are permitted.

~~E. D. Additional Standards.~~

- 1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
- 2. Maximum of 1 Residential Unit
- 3. Outdoor Amenity Space: 1/dwelling unit

3.2.5. House C

A. Description.

A one-unit house with a small footprint and up to 1.5 stories. House C building types are located across Newton and are most typified by the bungalow or cape house style. House C building types are most likely to have been built between the 1920s when the bungalow style gained popularity through the post-war construction boom of the 1950s.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
12 ft	65 ft	80 ft	1,200-1,500 sf SP: 1,800 sf	1.5 stories	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

~~C. Fenestration on the Front Elevation.~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~

~~D.C. Roof Types.~~

All Roof Types with an equivalent of 0 or 0.5 stories are permitted.

~~E.D. Additional Standards.~~

- Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
- Maximum of 1 Residential Unit
- Outdoor Amenity Space: 1/dwelling unit

3.2.6. House D

A. Description.

A one-unit house with a large footprint and no more than 1 story. House D building types are best known as Ranch houses – and are characterized by 1-floor living with or without a basement. The House D building type is most common in southern Newton and is typical of mid-20th century development.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	Ground Story
30 ft	120 ft	100 ft	3,500 sf SP: 4,000 sf	1 story	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

~~C.~~ Fenestration on the Front Elevation:

~~1.~~ Ground Story Fenestration: 20% Minimum, 70% Maximum

~~D.C.~~ Roof Types.

All Roof Types with an equivalent of 0 stories are permitted.

~~E.D.~~ Additional Standards.

1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
2. Maximum of 1 Residential Unit.
3. Outdoor Amenity Space: 1/dwelling unit.

3.2.7. Two-Unit Residence

A. Description.

The two-unit residence building type is common in Newton’s traditional mill village areas like the Upper Falls and Nonantum, as well as in early commuter neighborhoods near transit like West Newton, Newtonville and Auburndale. Two-unit residence types can be organized with one unit above and one below, two units side-by-side, or a combination as in the case of a “Philadelphia-style” duplex.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
20 ft	65 ft	80 ft	2,000 sf SP: 2,200 sf	3 stories	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

~~C. Fenestration on the Front Elevation:~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2. Upper Story Fenestration 10% Minimum, 70% Maximum~~

~~D.C. Roof Types.~~

All roof types are permitted.

~~E.D. Additional Standards.~~

- 1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
- 2. Must have 2 Residential Units.
- 3. Outdoor Amenity Space: 1/dwelling unit

3.2.8. Apartment House 3-Unit Building

A. Description.

A small multi-unit residential building with a footprint similar to a one-unit house. An apartment house 3-Unit Building contains 3 units, no more, no less, more than 2 units, but the scale of the structure is similar to 1- and 2-unit building types nearby, just with a few smaller than average units. Apartment houses were commonly built during the industrial revolution, and include the triple-decker, a building type unique to New England communities.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
20 ft	65 ft	80 ft	1,600 <u>2,500</u> sf SP: 1,800	2.53 <u>3</u> stories SP: 3 stories	Max 12 ft SP: 14 ft
SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)					

~~C. Fenestration on the Front Elevation:~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2. Upper Story Fenestration: 10% Minimum, 70% Maximum~~

~~D.C. Roof Types.~~

All Roof Types are permitted.

~~E.D. Additional Standards.~~

- ~~1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.~~
- ~~2. Residential Unit Factor:~~
 - ~~a. Base = 1250~~
 - ~~b. 100% Affordable OR Sustainable Design Standard = 900~~
- ~~3.2. Outdoor Amenity Space: 1/dwelling unit~~

3.2.9. Townhouse Section

A. Description.

A series of connected one- to two-unit houses, called townhouse sections, with separate entrances. The townhouse section building type first are seen in Newton in the late -18th century, but most townhouses in Newton date from the late 20th and early 21st century. Traditional townhouses come up to the street with alley access from the rear. Assemblages of 3 or 4 townhouse sections are found in neighborhoods across Newton. Large townhouse complexes are more typically found in southern Newton.

B. Building Dimensional Standards.

The following standards apply to each townhouse section.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
14 ft	28 ft	-	1,500 sf SP: 1,800 sf	3 stories	Max 12 ft SP: 14 ft
SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)					

~~C. Fenestration on the Front Elevation.~~

~~The following standards apply to each townhouse section:~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2. Upper Story Fenestration: 10% Minimum, 70% Maximum~~

~~D.C. Roof Types.~~

All Roof Types are permitted.

~~E.D. Additional Standards.~~

1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
2. Maximum of 2 Residential Units are permitted per townhouse section.
3. Outdoor Amenity Space: 1/Dwelling Unit
4. In no case may an attached series of townhouses contain more than 8 townhouse sections.
5. At least 1 townhouse unit in a series must be oriented toward the primary front lot line.

3.2.10. ~~Small Apartment Building~~ 4-8 Unit Building

A. Description.

A small multi-unit residential building. Whether built as a stand-alone building or as part of a complex, small apartment buildings typically are no taller than the peak of the roof of houses and apartment houses in the surrounding neighborhood and about the footprint of two mid-large attached house building types.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
20 ft	75 80 ft	90 80 ft	2,500 4,200 sf	3 stories	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

~~C. Fenestration on the Front Elevation.~~

- ~~1. Ground Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~2. Upper Story Fenestration: 10% Minimum, 70% Maximum~~
- ~~3. Max Blank Wall = 20 ft x 20 ft~~

~~D.C. Roof Types.~~

All Roof Types are permitted.

~~E.D. Additional Standards.~~

1. Only residential use categories are permitted; option for use conversion of an existing building according to Sec. 3.6.1.B.
- ~~2. Residential Units Factor:~~
 - ~~a. Base = 1,250~~
 - ~~b. 100% Affordable or Sustainable Design Standard = 900~~
- ~~3.2. Outdoor Amenity Space: 1/dwelling unit, may be shared.~~

3.2.11. Shop House

A. Description.

A small mixed-use building, typically a house with a ground floor shopfront containing a commercial use. Shop houses typically start as house or townhouse section building types with a shopfront added to the front elevation. Shop houses are commonly found at the edges of Newton’s traditional village centers and can contain a variety of uses.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights	
Min	Max	Max	Max	Max	Ground Story	Upper Stories
20 ft	40 ft	80 ft	2,000 sf SP: 2,500 sf	2.5 stories	Max 20 ft	Max 12 ft SP: 14 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

C. Fenestration on the Front Elevation.

1. Ground Story Fenestration: 40% Minimum
2. Upper Story Fenestration: 10% Minimum, 70% Maximum
3. Max Blank Wall = 20 ft x 20 ft

D. Roof Types.

All Roof Types are permitted.

E. Additional Standards.

1. Ground floor Standards:
 - a. A minimum of 30% of the ground floor must be utilized for non-residential uses.
 - b. Ground floor non-residential uses must be located along the front elevation.
2. Upper stories must be a residential use.
3. Residential Units Factor:
 - a. Base = 1,250
 - b. 100% Affordable or Sustainable Design Standard = 900
4. Outdoor Amenity Space: 1/dwelling unit, may be shared.

3.2.12. Small Multi-Use Building

A. Description.

A small mixed-use building that has ground floor commercial activity along the frontage and either residential or commercial uses on the upper floors. Small multi-use building types are found in many village centers in Newton.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights	
Min	Max	Max	Max	Max	Ground Story	Upper Stories
40 ft	100 ft	150 ft	12,000 sf	3 stories	Min 14 ft Max 24 ft	Min 10 ft Max 14 ft SP: +/- 2 ft

SP = Special Permit with mandatory Design Review (See Sec. 3.2.2)

C. Fenestration on the Front Elevation.

1. Ground Story Fenestration: 50% Minimum
- ~~2. Upper Story Fenestration: 20% Minimum, 70% Maximum~~
- ~~3.2. Max Blank Wall = 20 ft x 20 ft~~
- ~~4.3. Principal Non-residential Entrance Spacing: min. 1 entrance in each 40 ft of front elevation~~

D. Roof Types.

All Roof Types are permitted.

E. Additional Standards.

1. Ground Story Non-residential Use Dimensional Standards:
 - a. A minimum of 50% of the ground story must be utilized for non-residential uses.
 - b. Ground story non-residential uses must be located along the front elevation.
 - c. Ground story non-residential use space must be a minimum depth of 50 ft or 60% of the building depth whichever is less.
 - d. The ground story non-residential use dimensional standards may be varied by Special Permit in accordance with Sec. 3.2.2.
2. Residential Units Factor:
 - a. Base = 1,250
 - b. 100% Affordable/Sustainable Design Standard = 900
3. Outdoor Amenity Space: 1/dwelling unit, may be shared.

3.2.13. Small Shop

A. Description.

A single-story commercial building, typically for a retail or service use. Small shop building types generally contain one, but may contain a few, smaller commercial establishments with an active frontage.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	Ground Story
18 ft	100 ft	100 ft	7,000 sf	1.5 stories	Min 12 ft Max 24 ft

C. Fenestration on the Front Elevation.

1. Ground Story Fenestration: 60% Minimum
2. Max Blank Wall = 20 ft x 20 ft
3. Principal Entrance Spacing: min. 1 entrance in each 40 ft of front elevation

D. Roof Types.

All Roof Types with an equivalent of 0 or 0.5 stories are permitted.

E. Additional Standards.

1. **Loading and Garage Bays.** Loading and Garage doors are considered blank walls.
2. No residential uses.

3.2.14. Civic Building

A. Description.

A landmark community building with a limited range of community-oriented uses, such as a building constructed for a religious or educational institution, or as a community center.

B. Building Dimensional Standards.

Building Width		Building Depth	Building Footprint	Number of Stories	Story Heights
Min	Max	Max	Max	Max	All Stories
14 ft	300 ft	200 ft	30,000 sf	4.5 stories	Max 14 ft

C. Fenestration on the Front Elevation.

1. Ground Story Fenestration: 20% Minimum, 70% Maximum
2. Upper Story Fenestration: 10% Minimum, 70% Maximum

D. Roof Types.

All Roof Types are permitted.

E. Additional Standards

1. A Civic Building Type may only be occupied by Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3 or Public Service Uses.
2. A Civic Building Type may be converted to commercial or residential uses by Special Permit as described in Sec. 3.6.2 and Sec. 3.6.1.B.

3.3. Building Components.

3.3.1. Introduction and General Standards.

Building components are accessory features that attach to the building type and increase the habitable square footage or enhance the usefulness of a building. These components provide an important means for achieving variety and individuality in design of building facades and are permitted as indicated for each building type.

3.3.2. Architectural Components on the Front Elevation.

Any architectural components may be utilized in any design if fully compliant with the setbacks.

~~A. Architectural components utilizing the standards below, in total, may not exceed 40% of the width of the front elevation.~~

~~B.F.~~ Bay.

1. **Description.** A bay is a window assembly extending from the main body of a building to permit increased light, provide multi-direction views, and articulate a building wall.
2. **Dimensions.**

	Min	Max
Width (each bay)	-	Greater of 20% of wall length or 12 ft
Depth	-	3 ft
Fenestration	60%	-
Permitted Front Setback Encroachment	-	3 ft

3. **Additional Standards.**

- a. Bays may not cover more than 40% of the width of the front elevation on any story.
- b. In the Neighborhood General district, bays may project over the sidewalk of a public way under the following circumstances:
 - i. Bay must have a minimum of 20 ft clearance above the sidewalk.
 - ii. Permits for new bays over the public-way require written permission from the Commissioner of Public Works, verifying that the bay does not interfere with public infrastructure and maintenance needs.

~~C.G.~~ Balcony.

1. **Description.** An unenclosed platform with a railing that provides outdoor amenity space on upper stories.
2. **Dimensions.**

	Min	Max
Width (each balcony)	5 ft	Greater of 20% of wall length or 12 ft
Depth	3 ft	8 ft
Clearance	10 ft	-
Permitted Front Setback Encroachment	-	3 ft

3. **Additional Standards.**

- a. Balconies may be recessed, projecting, or a combination of the two.
- b. The guard rail of any balcony oriented toward a front lot line must permit views of the public realm through the posts and rails with a maximum height of 48” for an opaque enclosure at the bottom of the guardrail.
- c. In the Neighborhood General district, balconies may project over the sidewalk of a public way under the following circumstances:
 - i. Balcony must have a minimum of 20 ft clearance above the sidewalk.
 - ii. Balcony may extend up to 3 ft over a sidewalk.
 - iii. Permits for new balconies over the public-way require written permission from the Commissioner of Public Works, verifying that the balcony does not interfere with public infrastructure and maintenance needs.

D.H. Front Porch.

1. **Description.** An unenclosed platform connected to a principal building that provides outdoor amenity space forward of the front elevation.

2. **Dimensions.**

	Min	Max
Width	8 ft	Same as front elevation width
Depth	6 ft	-
Permitted Front Setback Encroachment	-	6 ft

3. **Standards.**

- a. Stairs may encroach upon the front setback by a maximum of 4 ~~ft-feet~~ feet beyond the front porch but must be ~~no less than~~ at least 2 feet from the front property line.
- b. The guard rail of any front porch oriented toward a front lot line must permit views of the public realm through the posts and rails with a maximum height of 48” for an opaque enclosure at the bottom of the guardrail.
- c. A front porch may be screened or open.
- d. Front porches may include multiple levels for buildings of 2 or more stories, provided the footprint is the same as at the ground floor or reduced on upper stories.

E.I. Projecting Front Entry.

1. **Description.** An enclosed or unenclosed entry to a principal building.

2. **Dimensions.**

	Min	Max
Width	4 ft	8 ft or 20% of the front elevation whichever greater
Ceiling Height	-	12 ft
Permitted Front Setback Encroachment	-	4 ft

3. **Standards.**

- a. Uncovered stairs, at the minimal width required by building code, may encroach upon the front setback, but must be at least 2 feet from the front property line. -

F.J. Turret.

- 1. **Description.** A small, decorative, tower-like extension from the wall or corner of a building, meant to provide distinctive living space or to terminate an important axis.
- 2. **Dimensions.**

	Min	Max
Width	6 ft	10 ft
Depth	6 ft	10 ft
Height	-	Stories equal to the principal building type
Fenestration	30%	-
Permitted Setback Encroachments		
Front	-	2 ft
Side	-	2 ft
Rear	-	-

- 3. **Standards.**
 - a. A building may include a maximum of one turret.
 - b. The highest point of the roof of a turret may be higher than the highest point of the roof of the primary building by up to 10%.
 - c. Turrets may wrap around corners.

3.3.3. Roof Components.

A. Dormer.

- 1. **Description.** A dormer is a windowed roof form that projects vertically from a sloped roof to provide light into and increase the habitable space of a half-story.
- 2. **Dimensions.**
 - a. A dormer may be no wider than 50 percent of the length of the exterior wall of the story next below. Where more than one dormer is located on the same side of the roof, the width of all dormers combined may not exceed 50 percent of the length of the exterior wall next below.
 - i. A dormer on the rear wall of a House C may extend up to 75% of the length of the building wall below.
 - b. The vertical plane of the side wall of any dormer shall not be closer than 3 feet from the vertical plane of the intersection of the roof and the main building end wall nearest the dormer.
- 3. **Standards.**
 - a. Dormers may be used with any roof type, except the flat roof.
 - b. No dormer may extend above the roof ridge line.

B. Cross Gable.

- 1. **Description.** A cross gable is a sloped roof that projects perpendicularly from the main roof of a building to increase the habitable space of a half story or add architectural distinction to a low gabled roof.

2. **Dimensions.**
 - a. A Cross Gable may not exceed 50% of the eave length of the roof to which it connects.
3. **Standards.**
 - a. A cross gable may only be used with a gable or low gable roof type.

C. **Roof Deck.**

1. **Description.** A raised uncovered platform with a railing on the roof of a building that provides outdoor amenity space and access to views.
2. **Dimensions.**
 - a. The area of a roof deck may be up to the lesser of 400 **sf-square feet** or 20% of the footprint of the building.
 - b. The width of a roof deck may not exceed 50% of the building width, except on a flat roof it may extend up to the full width of the roof.
 - c. A roof deck must be set at least 5 **ft-feet** back from all building edges, and 10 **ft-feet** from the front elevation. This standard is waived if the parapet wall is utilized as the **roof deck** guardrail, provided it is of sufficient height.
3. **Standards.**
 - a. The guardrail must be constructed with posts and rails with spacing such that it does not exceed 50% opacity, except when built on a flat roof.
 - b. The guardrail may be higher than the highest point of the roof of the primary building, up to the minimum height **for a guard rail** required by building code.

3.3.4. **Accessory Structures.**

A. **General Standards.**

1. **Definitions.**
 - a. **Accessory Structure.** A non-enclosed structure accessory to the principal building on the lot, such as a swing set, ~~or~~ play structure, ~~or~~ pergola.
 - b. **Accessory Building.** An accessory building is a fully enclosed structure accessory to the principal building on the lot. (See Sec. 3.3.5)
 - c. **Bounding Box.** The smallest rectangle that can enclose the accessory structure.
2. **Accessory Structure Placement.**
 - a. Unless otherwise specified, an accessory structure may encroach any side or rear setback, provided that at least 3 feet is maintained from any lot line.
 - b. Unless otherwise specified, accessory structures may be no nearer to any front lot line than the front elevation of the principal building.
 - c. Unless otherwise specified, any accessory structure, exceeding a bounding box of 150 **sf-square feet**, must meet the setbacks for a principal building.

B. **Accessory Garden Structures.**

1. **Raised Planting Beds.**

- a. Raised planting beds may be forward of the front elevation and may encroach the front setback, provided that at least 32 feet is maintained from any front lot line.
- 2. Pergola.
 - a. A structure consisting of parallel colonnades supporting an open roof or girders and cross rafters, often shading an outdoor amenity area, or providing growing area for climbing plants.
 - b. A maximum of 1 pergola within a bounding box of 300 sf-square feet may be located forward of the front elevation but must not be within the front setback.
 - i. A pergola within a bounding box of 300 sf-square feet may encroach on the side and rear setbacks, provided that at least 5 feet is maintained from any lot line.

C. Accessory Art Structures.

- 1. Any artwork within any setback may not exceed 12 ft-feet in height.
- 2. Any artwork fitting within a bounding box of 100 sf-square feet may be forward of the front elevation and may encroach the front setback, provided that at least 5 feet is maintained from any front lot line.
- 3. Determination of whether an item qualifies as an artwork is to be made by the Director of the Mayor’s Office of Arts and Culture or their designee.

D. Accessory Athletic Structures.

- 1. Any permanent sport court or swimming pool must meet the setback requirements for a principal building.

3.3.5. Accessory Buildings.

A. General Standards.

- 1. **Definition.** An accessory building is a fully enclosed structure accessory to the principal building on the lot.
- 2. Accessory buildings shall conform to the following dimensions:

Building Footprint	Number of Stories	Ground Story Height
Max	Max	Max
700 sf	1.5 stories	18 ft

- a. No accessory building may exceed 22 ft-feet in height from average grade to the peak of the roof.
- 3. Accessory Building Placement.
 - a. Unless noted for a specific accessory building type below, an accessory building shall be no nearer to any side or rear lot line than 5 feet, and no nearer to any front lot line than the front elevation of the principal building, unless otherwise specified for the lot type.
 - ~~b. Accessory structures other than accessory buildings referenced above must conform to the applicable setback requirements for the principal building.~~
 - ~~e.b.~~ Accessory buildings must be separated from the principal building by at least 6 feet, measured from any surface of one to any surface of the other.

B. Accessory Garden Buildings.

1. **Animal house.** (e.g. dog house, horse barn)
 - a. Accessory buildings used for the keeping of animals must meet the setbacks for a principal building.
2. **Greenhouse.**
 - a. Permanent greenhouses exceeding 300 **sf-square feet** must meet the setbacks for a principal building.

3.4. Design Standards

3.4.1. Building Design Standards

A. Contextual Front Setback

Notwithstanding the front setbacks identified for each zoning district, new construction must have a contextual front setback as follows:

1. If the subject lot is an interior lot, the minimum and maximum front setbacks are equal to the actual distances that principal structures are set back from the front lot line on the two abutting lots of the same block face. See Figure 3.1 (a).
2. If the subject lot is a corner lot, the minimum front setback is equal to the actual distance that the principal structure is set back from the front lot line on the abutting lot that is oriented toward the same thoroughfare.
3. The contextual front setback provision does not exempt any building from complying with the maximum front setback required for each zoning district.

3.4.2. Garage Design Standards

A. **Applicability.** Garage Design Standards apply in the R2, R3, and N districts.

B. **Garage, defined.** An attached or detached structure designed primarily for the storage or parking of one or more automobiles. A detached garage is an accessory building (See Sec. 3.3.4).

C. **Standards for one-unit residential building types.**

1. There may be no more than 700 **sf-square feet** in total garage space on a lot providing for no more than 3 motor vehicles, between a maximum of one attached garage and one detached garage.
2. A garage may be no closer to the primary front lot line than the front elevation of the building.
3. The length of an attached garage facing the primary front lot line may be up to 50% of the width of the front elevation or 12 feet, whichever is greater.

D. **Standards for building types with two or more residential units.**

Parking spaces in garages are counted toward the minimum number of accessory parking spaces required by Sec. 3.7. Garages may be attached or detached.

1. **Attached Garages.** The length of an attached garage facing the primary front lot line may be up to 50% of the total front elevation or 24 feet, whichever is greater.
2. **Detached Garages.** Centralized and underground garages are encouraged.

- a. The number of detached garages on a property may not exceed one half of the number of units on the property, rounded down.
- b. A detached garage of more than 700 **sf-square feet** and providing for more than 3 vehicles is allowed by right if it meets the setbacks for a principal building.
- c. By Special Permit, a detached garage of more than 700 **sf-square feet** may be located within the setback, but not more than 5 **ft-feet** from the property line.
- d. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a detached garage in the setback, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Design and siting are compatible with the neighborhood and adjacent residential properties.
 - iii. Strategies such as screening, landscaping, and window placement reduce effects on neighboring properties.

3.5. Alternate Lot/Building Configurations

3.5.1. Rear Lots

A. **Defined.** A lot that has no or substandard frontage on a street, which has access to a street by either:

- 1. A “flag pole” or “pan-handle” shaped portion of the lot that is narrower than the minimum lot width and has street frontage, or
- 2. An easement over an adjoining lot that has street frontage.

B. **Standards.**

- 1. A rear lot may only be created from an interior lot.
- 2. A rear lot must meet the lot frontage, lot depth, setback, and lot coverage standards of the zoning district.
- 3. The front lot line of a rear lot may be either:
 - a. The rear lot line of the adjoining lot fronting the street; or
 - b. A lot line parallel to the driveway and perpendicular to the street as designated by the property owner at the time of the special permit application.
 - c. The building front elevation shall face the front lot line.
 - d. Minimum lot frontage is measured along this line.
- 4. No newly-created rear lot may create a non-conformity on the front lot. If the front lot does not have an existing principal building or is proposed for development/ redevelopment at the same time as the creation of the rear lot, the following minimum depth for the front lot is required in each district:
 - a. Residence 1: 100 ft
 - b. Residence 2: 75 ft
 - c. Residence 3: 75 ft
 - d. Neighborhood General: 100 ft

5. A building type placed on a rear lot configured according to 3.6.1.B.3.a must be placed such that no more than 50% of the building width is behind the building on the lot fronting the street, as viewed in a direct line from the street.
6. Only a House C building type may be placed on a rear lot.

C. **Review Criteria.** The creation of a rear lot requires a special permit from the Planning Board in accordance with the procedures described in Article 11. In its discretion to approve or deny a special permit authorizing the creation of a rear lot, the Special Permit Granting Authority must find that the application meets the following criteria:

1. The criteria for all Special Permits specified in Sec. 11.4.3.
2. Design and landscaping are compatible with the neighborhood and adjacent properties.
3. Landscaping and other screening strategies serve to clearly delineate the private yards of the proposed dwelling on the rear lot and that of buildings on abutting lots.
4. Access to the rear lot is sufficient to accommodate public safety needs.

3.5.2. Multi-Unit Conversion

- A. An existing House A or Civic building type may be altered or renovated to install or increase the permitted number of residential units by special permit in accordance with the procedures described in Article 11.
- B. The Special Permit Granting Authority is determined by the scale of the project (See Secs. 3.1).
- C. The building must have been built at least 10 years prior to the date of application.
- D. The maximum number of residential units allowed in a building is subject to the following residential unit factors:
 1. Base RU Factor = 1250
 2. 100% Affordable/Sustainable Design Standard RU Factor = 900
- E. **Review Criteria.** In its discretion to approve or deny a special permit authorizing multi-unit conversion of an existing building, the Special Permit Granting Authority must find that the application meets the following criteria:
 1. The criteria for all Special Permits specified in Sec. 11.4.3.
 2. Preservation of the existing building's design integrity, with special attention to important historic features or components of the building.
 3. Design and landscaping are compatible with the neighborhood and adjacent properties.
 4. Preservation and/or enhancement of landscaped areas and trees, especially to serve as a buffer to neighboring lots.
 5. On and off-street parking available provides an adequate supply of parking (drawing guidance from existing standards in the Newton Zoning Ordinance) while also minimizing the presence of large parking areas and extensive areas of pavement.

3.5.3. Courtyard Cluster

A. **Defined.** A series of smaller than typical residential building types surrounding a shared courtyard green space. The Courtyard Cluster is scaled to fit within neighborhoods of residential building types and provide units that are smaller than average for the area in a setting where some features, like parking and outdoor amenity spaces, are located in common facilities.

B. **Standards.**

1. **Lot Standards.**

District	Lot Coverage		
	Lot Size	Lot Frontage	Max
R1	1 ac	50 ft	30%
R2	1 ac	50 ft	40%
R3	.75 ac	50 ft	50%
<u>R4</u>	<u>.75 ac</u>	<u>50 ft</u>	<u>60%</u>
N	.75 ac	50 ft	60%

2. **Building Types and Additional Standards.** The following building types may be used in a courtyard cluster. Unless varied by the standards listed here, all other standards for each building type apply.

District	Building Types	Footprint Limits
		Max.
Residence 1	House C	1200 sf
	House D	1400 sf
Residence 2	House C	1200 sf
	House B	
Residence 3	House C	1200 sf
	House B	
	Two-Unit Residence	
Neighborhood General	House B	1400 sf
	<u>House C</u>	
	<u>Two-Unit Residence</u> <u>Apartment House 3-Unit Building</u>	

3. Buildings ~~shall~~**must** front the courtyard or the public street. No building may orient a rear wall to the courtyard or street.

4. **Courtyard Requirements.**

- a. A minimum of 400 square feet per unit of courtyard is required with a minimum width and depth of 20 feet.
- b. At least 50% of the buildings must abut the courtyard.
- c. All buildings must be within 60 feet of the courtyard as measured from the front door to the edge of the courtyard.
- d. The courtyard must have buildings abutting at least two sides.

5. Courtyard clusters may not contain streets.

6. Driveways may not be located between any building and the court.

7. **Parking.**

- a. Parking may be located in or under a building, in a surface lot, or in detached garages, provided that parking is screened from view from adjoining properties and the street.

- b. Parking may be located between any two buildings and a rear or side lot line.
 - 8. An existing House A, House B, House C, House D, Two-Unit Residence, ~~Apartment House~~3-Unit Building, or Shop House which may be non-conforming with respect to the standards of this section, shall be permitted to remain, but the extent of the non-conformity with the courtyard cluster requirements may not be increased.
- C. **Review Criteria.** A Courtyard Cluster requires a Special Permit in accordance with the procedures described in Article 11. In its discretion to approve or deny a special permit authorizing a courtyard cluster, the Special Permit Granting Authority must find that the application meets the following criteria:
- 1. The criteria for all Special Permits specified in Sec. 11.4.3.
 - 2. Design and landscaping are compatible with the neighborhood and adjacent properties.
 - 3. The landscaped areas and trees are preserved and/or enhanced, especially to serve as a buffer to neighboring lots.
 - 4. On and off-street parking available provides an adequate supply of parking (drawing guidance from existing standards in the Newton Zoning Ordinance) while also minimizing the presence of large parking areas and extensive areas of pavement.

3.5.4. Multi-Building Assemblage

- A. **Purpose.** The intent of this section is to allow multiple principle building types to be built on a single lot. Buildings in an assemblage present and function as individual structures with varied character in order to lend visual interest and vibrancy to the mixed-use areas in which they are built.
- B. **Assemblage, defined.** An assemblage is a series of attached or related buildings, assembling multiple principal building types on one lot.
- C. **Standards.**

Multi-building Assemblage is allowed in the Neighborhood General (N) district in accordance with the following standards:

- 1. All lot standards must be met.
- 2. Buildings may be attached within the setbacks.
- 3. Each building in the assemblage must meet the standards for a building type allowed in the Neighborhood General District.
- 4. Townhouse Sections must be in a series of at least 3 but no more 8 sections.
- 5. All building front elevations must front on private- or public-ways.
- 6. If buildings are attached, the front elevation setbacks from the front lot line must vary after every 3 adjacent buildings by at least 4 feet.
- 7. All buildings must have individual entrances. Except as allowed below, no building may be accessed through an adjacent building.
 - a. Underground parking may be connected and shared.
 - b. Ground floor non-residential spaces may be combined between adjacent buildings.

- c. Floor-to-floor connections on upper stories may be allowed between attached buildings in an assemblage by special permit in accordance with Sec. 3.2.2. In addition to the criteria described in Article 11, the Special Permit Granting Authority shall consider the purpose of this section 3.5.4.
 - 8. No more than 2 adjacent buildings, with the exception of a series of townhouses, may have the same primary roof orientation and/or type.
 - 9. Each assemblage with a mix of commercial and residential uses with a total of more than 60 dwelling units must contain a minimum of 1 public gathering space adjacent to a public-way, in accordance with Sec. 2.10.
- D. **Development Review.** Depending on the scale, a Multi-Building Assemblage may be by right or require a special permit.
 - 1. **By Right.** An assemblage is by-right if it includes no more than 8 dwelling units or 8,000 square feet of commercial space.
 - 2. **By Special Permit.** Multi-building assemblages with more than the by right number of units or square footage of commercial space require a special permit. The Special Permit Granting Authority is determined by the scale of the project in accordance with Sec. 3.1.1.D.
 - a. **Review Criteria.** In addition to the criteria described in Article 11, the Special Permit Granting Authority shall consider the purpose of this Sec. 3.5.4.

3.6. Allowed Uses.

3.6.1. General Standards for Allowed Uses in the Residence Districts.

A. Permitted Uses

- 1. The use of real property is subject to the provisions of Article 9 Use Regulations.
- 2. Uses are permitted as specified in Sec. 3.6.2.
- 3. Use categories not expressly authorized are prohibited.
- 4. Uses permitted by Special Permit require additional development review in accordance with Article 9 and Article 11.
- 5. Number of residential units allowed and the size of building permitted is subject to the Building Type rules in Sec. 3.2.

B. Adaptive Reuse of Existing Buildings

The use of any principal building constructed before the effective date of this Ordinance may be changed by Special Permit from the Planning Board to include any use within the following principal use categories in accordance with the table in 3.6.2 and according to the requirements and processes of Article 9 and Article 11.

- 1. The following use categories are allowed:
 - a. Arts Exhibition
 - b. Art Sales & Services
 - c. Community Center
 - d. Museum
 - e. Shared Workspaces & Arts Education
 - f. Restaurant/Café

- g. General Office
- 2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing an adaptive reuse of an existing building, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Design, landscaping, and property management strategies are compatible with the neighborhood and adjacent residential properties.
 - c. Location relative to the transportation system, ensuring that the proposed customer base, clients, and/or suppliers, can readily get to the proposed location while minimizing disruption to the neighborhood.
 - d. On and off-street parking available provides an adequate supply of parking (drawing guidance from existing standards in the Newton Zoning Ordinance) while also minimizing the presence of large parking areas and extensive areas of pavement.
 - e. Preservation and/or enhancement of landscaped areas and trees, especially to serve as a buffer to neighboring lots.

C. Permitted Accessory Uses.

- 1. The use of real property is subject to the provisions of Article 9 Use Regulations.
- 2. Accessory Uses permitted by Special Permit require additional development review in accordance with Article 9 and Article 11.

3.6.2. Use Table.

The following use categories and specific uses are permitted in the Residence Districts:

Use Category Specific Use	R1	R2	R3	R4	N	Definitions & Use Specific Standards
Residential Use Categories						
Household Living Uses	P	P	P		P	
Group Living Uses (except as follows)	SP	SP	SP		SP	
• Community / Group Residence	P	P	P		P	
• Dormitory, Student Residences	SP	SP	SP		SP	
• Lodging House	N	N	SP		SP	
• Nursing Home / Assisted Living Facility	SP	SP	SP		SP	
Arts & Creative Enterprise Use Categories						
Artisan Production Uses	N	N	N		P	
Arts Exhibition Uses	SP	N	N		SP	
Arts, Sales & Service Uses	SP	SP	SP		P	
Shared Workspaces & Arts Education Uses	SP	N	N		SP	
Work/Live Creative Studio Uses	N	N	N		P	

Civic & Institutional Use Categories						
Community Center Uses	SP	SP	SP		SP	
Minor Utility Uses	SP	SP	SP		SP	
Major Utility Uses	SP	SP	SP		SP	
Museum Uses	SP	SP	SP		SP	
Private, Non-profit Club or Lodge Uses	SP	SP	SP		SP	
Public Service Uses	P	P	P		P	
Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3	L	L	L		L	
Commercial Service Use Categories						
Animal Service Uses (as noted below)	-	-	-		-	
• Veterinarian	N	N	N		SP	
Banking & Financial Service Uses	N	N	N		SP	
Building & Home Repair Service Uses	N	N	N		P	
Business Support Service Uses	N	N	N		P	
Day Care Service Uses (as noted below)	--	--	--		--	
• Adult Day Care Center	SP	SP	SP		SP	
• Child Day Care Center	P	P	P		P	
Educational Institution Uses	SP	SP	SP		SP	
Maintenance & Repair of Consumer Goods Uses	N	N	N		SP	
Personal Service Uses (as noted below)	-	-	-		-	
• Funeral Home	N	N	N		P	
• Health Care Provider	N	N	N		SP	
Eating and Drinking Use Categories						
Restaurant/Café Uses	SP	SP	SP		SP	
Lodging Use Categories						
Bed & Breakfast Uses	SP	SP	SP		SP	
Motor Vehicle-Oriented Use Categories						
Motor Vehicle Parking Uses (as noted below)	--	--	--		--	
• Off-Site Accessory Parking	N	N	N		SP	
Office Use Categories						
Co-Working Uses	N	N	N		P	
General Office Uses	SP	SP	SP		P	

Open Space Use Categories						
Farming Uses	P	P	P		P	
• Community Gardening	P	P	P		P	
Private Cemetery Uses	P	P	P		P	
Resource Extraction Uses	SP	SP	SP		SP	
Retail Sales Use Categories						
Consumer Goods Uses (Except as Follows)	N	N	N		P	
• Fresh Food Market or Grocery Store	N	N	N		P	
• Farmer/Vendor Market	N	N	N		P	
Accessory Uses	R1	R2	R3		N	
Uses typically found as accessory to permitted principal uses.	P	P	P		P	
Uses typically found as accessory to household living.	P	P	P		P	
Accessory Apartment	--	--	--		--	
• Internal	P	P	P		P	
• Detached	SP	SP	SP		SP	
A.T.M.	N	N	N		P	
Car Share & Bike Share	N	N	N		P	
Commercial Vehicle Parking	P	P	P		P	
Home Business Uses	P	P	P		P	
• Day Care	P	P	P		P	
Short Term Rental	P	P	P		P	
P = Permitted, N = Not Allowed, L = Allowed with Limitations, SP = Special Permit						

3.7. Parking Requirements in the Residence Districts.

3.7.1. General Standards.

A. Required Accessory Parking Spaces.

Vehicular and bicycle parking must be provided as specified in Sec. 3.7.3, except as follows:

- 1- and 2-unit residential buildings are exempt from the requirements of Sec. 3.7.3.
- Ground story non-residential uses with ~~five thousand (5,000)~~ square feet or less of gross leasable floor area are exempt from the requirements of Sec. 3.7.3.
- There are no parking requirements for accessory uses.
- Parking may be shared between uses on the same lot and buildings within 500 linear ~~#feet~~ as measured along the street in accordance with Article 8.
- One on-street parking space, where permitted, for every ~~twenty-20~~ feet of lot width may be counted toward any minimum parking requirement.

B. Vehicular Parking Space Types.

Accessory motor vehicle parking spaces may be provided as off-street surface parking spaces, structured parking spaces, and on-street parking spaces.

C. Unbundled Market Rate Parking.

1. Off-street motor vehicle parking spaces must be rented, leased, or sold as a separate option rather than a requirement of the rental, lease, or purchase of a residential unit or non-residential floor space.
2. Bicycle parking must be provided at no cost or fee to customers, visitors, employees, tenants, and residents.

D. Parking Design.

The design of all parking is subject to Article 8 of this Ordinance.

E. Driveway Access.

1. Driveways may provide access from a front, side, or rear lot line and may be located within required front or rear setback areas.
2. No parking stall may be located within any required setback area, with the exception that up to 2 parking stalls may be located in a side setback area. No parking stall may be located between the building front elevation and the street.
3. Driveways may be no wider than 12 feet if providing one-way access to a parking area and no wider than 24 feet if providing two-way access to a parking area.
4. Driveways may provide access in whole or in part on or across an abutting lot(s), provided that an access easement exists among all affected property owners.
5. Unless otherwise specified, only one curb cut is permitted per front lot line.
6. Curb cuts must be located to minimize conflict with pedestrians, bicyclists, and motor vehicles on the thoroughfare they provide access to and from.
7. Curb cuts may be no wider than the driveway or vehicular entrance they serve, excluding flares or returned curbs.
8. Driveways and alleys traversing sidewalks must be designed to maintain the grade and clear width of the walkway they cross and must include returned curbs.

F. Off-site Parking on a Contiguous Lot.

Required accessory vehicular parking spaces, excluding required parking for disabled persons, may be provided on a contiguous lot under the same ownership as the lot that the parking will serve with a Special Permit.

1. The following additional standards apply:
 - a. Pedestrian access to off-site vehicular parking must be via a paved sidewalk or walkway.
 - b. A lease, recorded covenant, or other comparable legal instrument guaranteeing long term use of the site must be provided to the Special Permit Granting Authority or Commissioner of Inspectional Services, as appropriate, and executed and filed with the Registry of Deeds.

3.7.2. Parking Relief

- A. Relief from the number of required accessory parking spaces in Sec. 3.7.3. requires a special permit from the Planning Board.

B. **Review Criteria.** In its discretion to approve or deny a special permit authorizing relief from the parking standards of Sec. 3.7.3, the Special Permit Granting Authority must find that the application meets the following criteria:

1. The supply and demand of on-street parking in the neighborhood is adequate, as determined through a parking study.
2. Mobility management programs and services have been provided by the applicant to reduce the demand for parking.
3. There is Aavailability and access to public transportation options.
4. That parking provided in excess of any maximum permitted does not result in the increase in impervious lot area.

3.7.3. Required Number of Accessory Parking Spaces.

The following standards for accessory bicycle and motor vehicle parking spaces are associated with the use categories permitted in the Residence Districts:

Use Category Specific Use	Bicycle Parking		Motor Vehicle	
	Short (min)	Long (min)	Min	Max
Residential Use Categories				
Household Living Uses	-	0.5 / DU	1.0 / DU	2.0 / DU
Group Living Uses	0.5 / DU	0.1 / DU	1.0 / DU	2.0 / DU
Arts & Creative Enterprise Use Categories				
Artisan Production Uses	-	1.0 / 2,500 sf	1.0 / 1,000 sf	2.0 / 1,000 sf
Arts Exhibition Uses	1.0 / 10,000 sf	1.0 / 3,000 sf	1.0 / 1,000 sf	4.0 / 1,000 sf
Arts, Sales & Service Uses	1.0 / 10,000 sf	1.0 / 3,000 sf	1.0 / 1,000 sf	4.0 / 1,000 sf
Shared Workspaces & Arts Education Uses	1.0 / 10,000 sf	1.0 / 3,000 sf	1.0 / 1,000 sf	4.0 / 1,000 sf
Work/Live Creative Studio Uses	0.5 / DU	0.1 / DU	1.0 / DU	2.0 / DU
Civic & Institutional Use Categories				
Community Center Uses	1.0 / 5,000 sf	1.0 / 2,500 sf	2.0 / 1,000 sf	5.0 / 1,000 sf
Minor Utility Uses	n/a	n/a	n/a	n/a
Major Utility Uses	-	-	-	-
Museum Uses	1.0 / 10,000 sf	1.0 / 3,000 sf	2.0 / 1,000 sf	5.0 / 1,000 sf
Private, Non-profit Club or Lodge Uses	1.0 / 5,000 sf	1.0 / 2,500 sf	2.0 / 1,000 sf	4.0 / 1,000 sf
Public Service Uses	-	-	-	-
Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3	1.0 / 1,000 sf	1.0 / 2,500	2.0 / 1,000 sf	8.0 / 1,000 sf
Commercial Services Use Categories				
Animal Services Uses	1.0 / 5,000 sf	1.0 / 2,500 sf	2.0 / 1,000 sf	3.5 / 1,000 sf

Banking & Financial Services Uses	1.0 / 5,000 sf	1.0 / 2,000 sf	1.5 / 1,000 sf	3.5 / 1,000 sf
Building & Home Repair Service Uses	-	1.0 / 2,500 sf	1.0 / 1,000 sf	2 / 1,000 sf
Business Support Service Uses	1.0 / 2,000 sf	1.0 / 2,500 sf	1.0 / 1,000 sf	3.0 / 1,000 sf
Day Care Service Uses	1.0 / 5,000 sf	1.0 / 1,000 sf	1.5 / 1,000 sf	3.0 / 1,000 sf
Educational Institution Uses	1.0 / 1,000 sf	1.0 / 2,000 sf	1.0 / 1,000 sf	4.0 / 1,000 sf
Maintenance & Repair of Consumer Goods Uses	1.0 / 5,000 sf	1.0 / 2,500 sf	1.0 / 1,000 sf	3.0 / 1,000 sf
Personal Service Uses	1.0 / 1,000 sf	1.0 / 2,500 sf	2.0 / 1,000 sf	4.0 / 1,000 sf
Eating and Drinking Use Categories				
Restaurant/Café Uses	1.0 / 2,000 sf	1.0 / 2,000 sf	4.0 / 1,000 sf	8.0 / 1,000 sf
Lodging Use Categories				
Bed & Breakfast Uses	-	-	1.0 / bedroom	3 + 1.0 / bedroom
Motor Vehicle Oriented Uses				
Motor Vehicle Parking Uses	-	-	-	-
Office Use Categories				
Co-Working Uses	1.0 / 5,000 sf	1.0 / 2,000 sf	1.5 / 1,000 sf	3.5 / 1,000 sf
General Office Uses	1.0 / 5,000 sf	1.0 / 2,000 sf	1.0 / 1,000 sf	2.5 / 1,000 sf
Open Space Use Categories				
Farming Uses	-	-	-	-
Private Cemetery Uses	-	-	-	-
Resource Extraction Uses	-	-	-	-
Retail Sales Use Categories				
Consumer Goods Uses	1.0 / 2,000 sf	1.0 / 2,500 sf	1.0 / 1,000 sf	3.0 / 1,000 sf

Article 2 General Standards

2.1 Purpose

2.1.1 Purpose.

The purpose of this section is to explain the dimensional standards of this ordinance, defining how each is measured and providing generally applicable rules, standards, and reference information.

2.1.2 Applicability.

The rules and standards described in this Article apply to all development in the City.

2.2 Lots

2.2.1 Lot Definitions.

- A. **Lot.** An area of land with definite boundaries established by deed and/or a plan recorded in the Registry of Deeds, undivided by a street (except where allowed by the Zoning District).
- B. **Lot Area.** The horizontal measurement of a lot in square feet, exclusive of area in a street.
- C. **Lot Coverage.** The percentage of lot area that is covered by structures, impermeable surfaces, paving, pavers, and decking. The lot coverage standard is intended to differentiate between the built and unbuilt aspects of a lot. Buildings are measured from the outer edge of the walls and include cantilevered portions of building, exclusive of the area under the eaves. Any area used for parking, no matter the surface material, is counted in the lot coverage.
- D. **Lot Dimensions.**
 - 1. **Lot Frontage.** Lot frontage is the length of the primary front lot line of a lot.
 - 2. **Lot Depth.** Lot depth is the horizontal distance between the midpoint of the primary front lot line and the midpoint of the rear lot line or, if there is no rear lot line, to the most distant point on any other lot line.
- E. **Lot Line.** A boundary line that demarcates a lot.
- F. **Front Lot Line.** Any lot line abutting a street is a front lot line.
 - 1. **Primary Front Lot Line.** Where there are multiple front lot lines, one is designated a primary front lot line.
 - a. At time of application for a building permit or other municipal approval for which the location of the front lot line must be established, the property owner of such a lot may designate a Primary Front Lot Line which will be utilized to measure lot frontage. The other secondary front lot line continues to be a front lot line.

- G. **Rear Lot Line.** Any lot line which is parallel to or within 45 degrees of being parallel to a front lot line. If what would be a rear lot line is a side lot line of an abutting property, it is considered a side lot line.
- H. **Side Lot Line.** Any lot line other than a front or rear lot line.
- I. **Front Elevation.** The exterior wall of a building oriented in whole or in part toward the primary front lot line.

2.2.2 Lot Types.

- A. **Interior Lot.** A lot with frontage on a single street.
- B. **Corner Lot.** A lot with frontage on two intersecting streets or at the bend in a street.
 - 1. A corner lot occurs when:
 - a. Two streets intersect at an interior angle of 120 degrees or less
 - b. A bend in the street forms an interior angle of 120 degrees or less
 - c. A curve in a street or at the intersection of two streets where the tangent lines of the curve form an angle of 120 degrees or less when extended into the intersection
 - 2. The frontage along the primary front lot line runs from the intersection of the two front lot lines to the intersection of the primary front lot line with the side lot line.
- C. **Through Lot.** A lot with frontage on two or more non-intersecting streets.
- D. **Rear Lot.** See Sec. 3.54.12.
- E. **Waterfront Lot.** A lot with frontage on a street and a body of water.
 - 1. The frontages on both the street and body of water are considered front lot lines. The primary front lot line is along the street.

2.3 Lot Standards and Setbacks.

2.3.1 Lot Frontage.

- A. All lots must have no less and no more than the minimum and maximum lot frontage established for the zoning district in which the lot is located. See Article 10 for rules applying to nonconforming lots.

2.3.2 Lot Coverage.

- A. All lots are required to meet the lot coverage standard established for the zoning district in which the lot is located.
- B. Lot coverage may be increased through Special Permit up to 10% beyond the maximum standard established for the zoning district in which the lot is located.
 - 1. Increasing lot coverage within 10% of the maximum established for the zoning district requires a Special Permit. The Special Permit Granting Authority is determined by the scale of the project (See Secs. 3.1, 4.1, 5.1, and 6.1).

2. Review Criteria. In its discretion to approve or deny a Special Permit authorizing an expansion of the lot coverage, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for a Special Permit specified in Sec. 11.4.3.
 - b. Design and landscaping ~~is~~ are compatible with the neighborhood and adjacent properties.
 - c. Methods to address stormwater runoff on neighboring properties and public infrastructure meet or exceed the standards of Sec. 8.3.
 - d. The landscaped areas and trees included address the heat island effect.

2.3.3 Setback Definitions.

- A. **Setback.** A line parallel to a lot line that establishes where a structure or parking area may be placed. Setbacks are understood to represent a vertical plane rather than a point on the ground. A minimum setback establishes the nearest point to the lot line where any part of a structure or parking area may be placed.
 1. **Maximum Front Setback.** A maximum front setback establishes the furthest point from the lot line where the front elevation may be located.
- B. **Setback Area.** The area between the minimum and maximum front setback.

2.3.4 Setback Standards.

A. Building Setbacks.

1. All buildings and structures must be located no closer to an adjoining lot or street line than any required minimum front, side, or rear setback, except as permitted in Sec 2.3.5-~~C~~.
2. The front elevation of a principal building must be built no further from the front lot line than the required maximum front setback.

B. Parking Setbacks.

Parking Lots and Parking Structures, excluding underground parking, must be located at or behind any required minimum parking setback.

1. If a lot has more than one front lot line, the parking setback is only taken from the primary front lot line.

C. Specific Setback Rules for Buildings and Structures on Waterfront Lots.

1. Accessory buildings and structures on waterfront lots may be located forward of the front elevation along the street frontage, but not within the front setback area.

2.3.5 Setback Encroachments.

- A. Building components may extend in front of a required minimum front setback as indicated for each type of component.
- B. Cornices, belt courses, sills, buttresses and other architectural features may encroach up to 2 feet into a minimum front or side setback.
- C. Building eaves and roof overhangs may encroach up to 3 feet into a minimum front or side setback, provided that at least 3 feet is maintained from any lot line.
- D. Insulation exterior to the walls of a building may encroach in the setback.

- E. Chimneys and flues may encroach up to 4 feet into a minimum side or rear setback, provided that they are at least 2 feet from of any lot line.
- F. Unenclosed fire escapes or emergency egress stairways may encroach up to 4 feet into a minimum side or rear setback, provided that they are at least 2 feet from any lot line.
- G. Mechanical equipment associated with residential uses, such as HVAC units and security lighting, may encroach into a minimum side or rear setback, provided that such equipment is at least 4 feet from any lot line.
 - 1. Mechanical equipment located in the setback must meet the requirements of the City of Newton Noise Ordinance (Chapter 20, Article II).
- H. Terraces, uncovered and unenclosed patios, driveways, and/or structures below and covered by the ground may fully encroach into any minimum setback.
- I. Minor structures accessory to Utilities, such as hydrants, manholes, transformers, and other cabinet structures, may fully encroach into a minimum setback.
- J. Accessory structures, fences and walls, signs, and landscape buffers may encroach into minimum setbacks as indicated in Article 8.

2.3.6 Frontage Buildout.

- A. Frontage buildout is the ratio of the width of the front elevation within the minimum and maximum setback, as established by the district, to the lot frontage.
- B. If a contextual front setback applies, the front elevation must meet the contextual front setback for a minimum of 40% of its width.

2.4 Building Types and Components

2.4.1 Building Types.

Building type regulations are applicable in all zoning districts and include building standards for new construction, renovation of existing structures, and redevelopment.

Instead of applying generic dimensional standards to all principal structures, the use of Building Types as a regulatory tool allows dimensional standards to differ from one class or kind of structure to another within the same district.

2.4.2 Building Type General Standards.

- A. Each building type may only be constructed in the zoning districts where that building type is allowed.
- B. Each building type may contain any of the uses permitted in the district in which it is located, unless otherwise specified.
- C. **No Other Building Types.** All principal buildings constructed must fulfill the requirements of one of the building types permitted in the zoning district where it is located.
- D. **Permanent Structures.** All principal buildings must be permanent construction without wheels or other features that would make the structure mobile, unless otherwise noted.

2.4.3 Determining Building Type for Existing Buildings.

- A. The Commissioner of ISD is responsible for determining the building type classification of an existing or proposed building. Classification of ~~existing~~ buildings as building types is based on which building type the existing or proposed building most closely resembles.
- B. When determining which building type an ~~existing~~ building most closely resembles, the Commissioner of Inspectional Services will consider the following criteria:
 - 1. Use(s) and Number of Residential Units
 - 2. Height
 - 3. Building Footprint
- C. A Property Owner may submit a written request to reassess the building type classification assigned to their property and receive a written decision in return. A property owner may also appeal the decision of the Commissioner of Inspectional Services to the Zoning Board of Appeals per sec 11.6.

2.5 Building Footprint.

2.5.1 Measuring Building Footprint.

- A. Each building type has a maximum allowed footprint.
- B. The building footprint is measured from the outer edge of the exterior walls at the ground story and includes all enclosed spaces whether for habitation or storage. This includes building components on the ground story and attached garages.
- C. Unenclosed features, with and without roofs, attached to the building do not count toward the maximum building footprint. This includes attached decks, stoops, porticos, and porches. These features all count in the calculation of lot coverage and must not project into the setbacks unless otherwise permitted.

2.5.2 Building Components.

Building components are defined accessory features that attach to the building type and increase the habitable square footage or enhance the usefulness of a building. These components provide an important means for achieving variety and individuality in design of building front elevations and are permitted as indicated for each building type.

- A. Articles 3 and 4 include standards for building components along the front elevation that allow for minor encroachments in the front setback or over a public sidewalk.

2.6 Height and Massing

2.6.1 Intent and Purpose.

- A. The height and massing measurement standards are written with an understanding that the height and bulk that a building presents toward the public street is one of the prime determinants of neighborhood character.
- B. The height and massing measurement standards are intended to enable and encourage a property owner to work with the existing grade of a site, whether flat or sloped. Earthworks to change the grade related to building height measurement are discouraged. Earthworks projects are subject to the Erosion and Sedimentation Control Permit regardless of intent.

2.6.2 Definitions.

- A. **Average Ground Level.** The mean (average) grade of the finished ground level next to a building at the exterior walls as it existed prior to any site alteration in preparation for building.
- B. **Ground Story.** The lowest story of a building with a finished floor at or above the finished ground level at the front elevation.

2.6.3 Building Height Standards

- A. The total number of stories of a building is calculated as follows:
 - 1. The maximum number of stories is calculated along the front elevation.
 - 2. Ground Story and Basement:
 - a. A basement is counted as a story in the maximum number of stories when the finished floor of the ground story is 4 feet or more above the average ground level of the lot along the front elevation.
 - b. An exposed basement story along the front elevation is considered the ground story if it exceeds 50% of the width of the front elevation. An exposed basement story along the front elevation not exceeding 50% of the front elevation width is not counted toward the maximum number of stories.
 - c. A basement story exposed along a side or rear building wall, such as a walkout basement, is exempt from the maximum number of stories.
 - d. For any lot with frontage on 2 or more streets, the number of stories is calculated along the front elevation facing the primary front lot line.
 - 3. Upper Stories:
 - a. Upper stories must comply with stated minimums and maximum story heights for the building type.
 - b. A half-story is the space located directly under a roof and is less than a full story. The following standards apply to half-stories:
 - i. The roof rafters must intersect the wall plate or top of wall frame of the exterior walls at a height no more than 2 feet above the finished floor of the half-story.
 - ii. Ceiling height of a half story must not exceed 12 feet at any point.
 - iii. Attic space located under a 0 story equivalent roof is not counted as a half story (See Sec 2.6.3.E on Roof Types).
 - 4. Interior spaces may be configured to include multiple stories within the same interior volume.
 - 5. Stories in Above Grade Structured Parking:
 - a. Each story of above ground structured parking is counted as 1 story regardless of its relationship to habitable stories, except that up to 2 stories of above ground structured parking may be counted as 1 story when those stories are fully screened by a single ground story with active uses of an equal or greater story height (See Lined Garage Building Type).
- B. **Story Height.**
 - 1. Story height is measured vertically from the surface of the finished floor to the surface of the finished floor above. When there is no floor above, story height is

measured from the surface of the finished floor to the top of the structural beam or joists above or the top of the wall plate, whichever is higher.

2. Minimum story height is not measured for half-stories.

C. Ground Story Elevation.

Ground story elevation is measured from the average ground level at the exterior walls. Subject to Site Plan Approval, a property owner may request that the grade be calculated from the grade of the sidewalk of the abutting street or from the crown of the roadway of the adjacent street when no sidewalk exists, to the top of the finished floor of the ground story of a building, where this provision will allow a more contextual building.

D. Roof Types and Roof Components.

1. Defined primary roof types and roof components are permitted as indicated for each building type.
2. Primary Roof Types.
 - a. General Standards.
 - i. Each Roof Type has a “story equivalent” based on the amount of potential living area available under the roof. The story equivalent, depending upon the roof type, may limit the number of stories in a building. Building types that are permitted to have a 0.5 story may utilize a Roof Type equaling 0 or 1 story only if they do not build that 0.5 story.
 - ii. Buildings may have more than one roof and roof type, provided that one roof type is used for at least 50% of the building footprint, the “primary roof type.”
 - iii. Any roof type may be used as a secondary roof type as long as the maximum stories is met.
 - b. Gable Roof Type.
 - i. Description. A pitched roof with two sides meeting at a single ridge-beam.
 - ii. Story Equivalent. 0.5 story
 - iii. Roof Pitch. - Min pitch = 6:12, Max pitch = 14:12
 - c. Low Gable Roof Type.
 - i. Description. A pitched roof with two sides meeting at a single ridge-beam.
 - ii. Story Equivalent. 0 story
 - iii. Roof Pitch: Min pitch = 3:12, Max pitch = 6:12
 - d. Hipped Roof Type.
 - i. Description. A roof that is pitched on all sides meeting in a single point or ridge-beam.
 - ii. Story Equivalent. 0.5 story
 - iii. Roof Pitch: Min pitch = 6:12, Max pitch = 12:12
 - e. Low Hipped Roof Type.
 - i. Description. A roof that is pitched on all sides meeting in a single point or ridge-beam.

- ii. Story Equivalent. 0 story
 - iii. Roof Pitch: Min pitch = 3:12, Max pitch = 6:12
- f. **Two-Stage Roof Type.**
- i. Description. A complex pitched roof consisting of a shallow sloped upper portion and a steeply sloped lower portion, meeting either in a single ridge-beam (like a gambrel roof) or a single point (like a mansard roof).
 - ii. Story Equivalent. 1 story
 - iii. Roof Pitch: Upper slope: Min pitch = 1.5:12, Max pitch = 3:12, Lower slope: Min pitch = 9:12, Max pitch = 60:12
 - iv. The point at which slope changes must be at least 8 ft but no more than 12 ft higher than the building eaves.
- g. **Vault Roof Type.**
- i. Description. A roof formed by an arch, series of arches, or dome.
 - ii. Story Equivalent. 1 story
 - iii. The midpoint of the slope of the roof may be no more than 8 ft higher than the building eaves.
- h. **Flat Roof Type.**
- i. Description. A roof with almost no pitch and no central ridge.
 - ii. Story Equivalent. 0 story
 - iii. Roof Pitch: Min pitch = 1.5:12, Max pitch = 3:12
- i. **Shed Roof Type.**
- i. Description. A pitched roof sloping in one direction from a single high ridge beam to a single low ridge beam.
 - ii. Story Equivalent. 0.5 story
 - iii. The midpoint of the slope of the roof may be no more than 8 ft higher than the building eaves.
3. **Rooftop Mechanicals.**

The following rooftop mechanical systems are exempt up to a limit of 3 feet if unscreened or 8 feet if screened by parapet walls or similar opaque screening from view of the street.

- a. Roof mounted cellular, radio, and internet transmission equipment
- b. Skylights, vents and exhausts
- c. Solar panels and solar hot water systems
- d. Enclosed mechanical and stairwell penthouses

4. **Rooftop Architectural Features.**

Flagpoles, belfries, chimneys, cupolas, monuments, spires, steeples, and other non-habitable features are permitted on roofs and are exempt up to a height limit of 10 feet. Parapet walls are exempt to a height limit of 6 feet.

2.6.4 **Building Massing Standards.**

A. **Cantilevered Upper Stories.**

The upper stories of a building may not project in any direction beyond the exterior wall plane of the stories below, except for the following:

1. Cantilevered building massing counts toward lot coverage.
2. Permitted architectural components on the front elevation may project beyond the exterior wall of the stories below.
3. On a House A or House B, the second story may project up to 2 feet forward of the front elevation on the ground story.
4. The upper stories of a building may project up to 6 ft beyond the exterior wall plane of the stories below, with the exception of the front elevation, through cantilevering.
5. A Special Permit may be granted to allow cantilevering beyond 6 feet in any direction.
 - a. A Special Permit application for cantilevering shall be referred to the Urban Design Commission.
 - b. **Review Criteria.** In its discretion to approve or deny a special permit authorizing ~~an expansion of the lot coverage~~ cantilevering beyond 6 feet of the exterior wall, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Design is compatible with the scale, massing, and fenestration of the proposed building type.
 - iii. Design and landscaping is compatible with the neighborhood and adjacent properties.

B. Building Width.

Building width is measured parallel to the front elevation of a building at the widest point of the building.

C. Building Depth.

Depth is measured perpendicularly from the front elevation to the point on the rear wall most distant from the front elevation.

D. Floor Plate.

Floor plate is measured as the total gross floor area of each story of a building, measured at the outer edge of exterior walls but excluding building components.

E. Floor Area.

Floor area is measured as the total gross floor area of a building, addition, or portion of a building measured at the outer edge of exterior walls and summed across all floors. Where a measurement of the floor area of a portion of the a building is necessary (e.g. portion of non-residential floor area), it is measured to include the walls enclosing that space but does not include areas that are accessory to the portion of the building not being measured.

2.7 Front Elevation Composition

2.7.1 Definitions

A. Front Elevation.

The exterior wall of a building oriented in whole or in part toward the primary front lot line.

B. Fenestration.

The openings in a front elevation of a building, including windows and doors, but excluding entrances for parking, loading, and service facilities.

2.7.2 Fenestration Standards

- A. Fenestration must be provided as indicated for each building type and is calculated as a percentage of the area of a front elevation.
- B. Openings are measured by the size of the windows or doors or the size of the opening where neither are present.
- C. Ground story fenestration is measured between 2 and 12 feet above the finished grade.
- D. Upper story fenestration is measured independently for each story, from the top of the finished floor to the top of the finished floor above. There is no fenestration requirement for a half story.
- E. Fenestration enclosed with glazing may be included in the calculation if it meets the following criteria:
 - 1. For ground story fenestration, glazing must have a minimum 60% Visible Light Transmittance and no more than 15% Visible Light Reflectance.
 - 2. For upper story fenestration, glazing must have a minimum of 40% Visible Light Transmittance and no more than 15% Visible Light Reflectance.

2.7.3 Blank Wall Area

Blank Wall area is any portion of the front elevation that does not include fenestration and surface relief through the use of columns, cornices, moldings, sills, sign bands, and other architectural features that either recess or project from the average grade plane of the front elevation by at least 4 inches.

Blank wall area limitations apply both vertically and horizontally for all stories of a building for any front elevation.

2.7.4 Principal Entrance Standards

- A. Principal entrance spacing is measured as the distance between the center lines of doors along a front elevation.
- B. Principal entrance spacing requirements must be met for each building individually but are not applicable to adjacent buildings.

2.8 Residential Units Factor

2.8.1 Definition.

The factor by which the maximum number of residential units permitted is calculated for a building.

2.8.2 Intent and Purpose.

The residential unit factor relates the maximum number of units directly to the size of the building.

- A. Two residential unit factors are given for each building type, a baseline and a bonus. The bonus residential units factor can be utilized if a project is 100% affordable units or meets the Sustainable Design Standards. Standards for when the bonus factor may be applied are articulated in Article 89. The bonus allows for more smaller units, but does not allow for an expanded building footprint.

2.8.3 Calculation.

The maximum number of dwelling units permitted is equal to the gross floor area of a building, less any floor area for non-residential uses, divided by the applicable residential unit factor.

2.9 Outdoor Amenity Space

2.9.1 Definition.

A feature of a lot or a building that provides outdoor social, recreational, and/or leisure space for the comfort and convenience of the residents of a building such as a balcony, deck, patio, porch, roof deck, terrace, or yard.

2.9.2 Standards.

- A. Where required, outdoor amenity space must be provided for each dwelling unit.
 1. Each outdoor amenity space must provide an unobstructed area of at least 24 square feet that may be used for seating.
 2. Some building types may allow outdoor amenity spaces to be shared spaces, provided that the shared space(s) includes the required area for each dwelling unit that the shared space is meant to serve. On building type pages this is indicated by the phrase “may be shared.”
 3. For all other building types, each outdoor amenity space must be directly accessible by a doorway from the dwelling unit it is meant to serve.

2.10 Public Gathering Space

2.10.1 Definition.

A space for public use constructed as part of certain building types and multi-building assemblages.

2.10.2 Standards.

- A. Space must be at least 1000 ~~sf-square feet~~ in size and may consist of plazas, greens, playgrounds, and other recreational areas.
- B. Space must be made available to the public from the hours of 8am-9pm at the minimum.
- C. Property owner ~~will be is~~ responsible for maintaining the public gathering space in accordance with the approved plan.

Article 9 Use Regulations

9.1. General.

9.1.1. Development Review.

- A. The establishment of any use, change in use of any structure or land, and any expansion in the use of land requires the submittal of a development review application to the Commissioner of Inspectional Services.
- B. All uses must comply with any use-specific standards applicable for each use in section 9.2.

9.1.2. Protected Uses.

- A. Nothing contained in this Ordinance shall be construed to prohibit the use of land or structures for activities protected by M.G.L. Chapter 40A, Section 3. In cases where a protected use is indicated as being by Special Permit or not permitted, that use is permitted and subject only to the provisions for the appropriate building type and zoning district.

9.1.3. Classification of Uses.

- A. **Use Categories.** The Commissioner of Inspectional Services is responsible for determining the use category and use. Use categories are based on similar functional, product, or physical characteristics, the type and amount of activity, the manner of tenancy, the conduct of customers, how goods or services are sold or delivered, and likely impacts on surrounding properties. The Commissioner of Inspectional Services determines the use category of a proposed use based on the similarity of the proposed use to the uses within a given category with these criteria.
 - 1. A use classified into one category may not also be classified in a different use category.
 - 2. If a proposed use is not listed in a use category, but meets the definition of a use category, as described above, the Commissioner may consider the proposed use part of that use category and issue a written interpretation to document such a determination for subsequent applications.
- B. **Uses Not Listed.** A use not specifically listed is prohibited unless the Commissioner of Inspectional Services determines the use to be part of a listed use category as described in paragraph A. above.

9.1.4. Outdoor Storage & Display.

- A. Outdoor storage of equipment, inventory, materials, merchandise, supplies, or other items, or the use of temporary storage containers, is prohibited except in the Fabrication district.
- B. Unless otherwise specified, outdoor display of products and merchandise is prohibited.

9.2. Use Definitions & Standards.

9.2.1. General.

- A. This section provides definitions for use categories and individual uses and identifies standards applicable to either all uses within a category or specifically to an individual use.
- B. In some cases, a principal use may include ancillary activities that are subordinate, customary, and incidental to the day-to-day operations of the principal use, as determined by the Commissioner of Inspectional Services. Such ancillary activities do not require separate approval but must comply with any standards applicable to the principal use.
- C. Unless otherwise specified, the Special Permit Granting Authority for all uses where a Special Permit is required is the Planning Board.

9.2.2. Residential Use Categories.

A. Household Living Uses.

Defined. Residential occupancy of a dwelling unit (whether that unit is a single-unit building type, or one of multiple dwelling units within a building type) for 30 days or more by one of the following arrangements of people:

- 1. An individual
- 2. A family, defined as 2 or more persons related by blood, marriage, adoption, or foster care agreement
- 3. No more than 4 unrelated ~~persons~~ individuals or families living as a single housekeeping unit

B. Group Living Uses.

Defined. Residential occupancy of a Dwelling Unit or set of Rooming Units for 30 days by more than 4 unrelated persons. The group living use category includes any residential occupancy that is not categorized as household living and any residential accommodations that provide a shared or communal kitchen, dining room, living room, or bathroom, including residential accommodations of an educational institution.

1. Community or Group Residence.

Defined. Residential occupancy of a dwelling unit by more than 4 unrelated individuals living as a single housekeeping unit, if said occupants are ‘handicapped’ as defined in 42 U.S.C. §3602 or have a ‘disability’ as defined in 42 U.S.C. §12102. Both terms are defined as a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment not including current, illegal use of or addiction to a controlled substance.

2. Dormitory or Chapter House.

Defined. Residential occupancy in dwelling units or rooming units exclusively by full- or part-time students, faculty, and staff of an educational institution and any group living facilities owned by or affiliated with an educational institution.

- a. The Special Permit Granting Authority for a dormitory or chapter house is the City Council.

- b. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a dormitory or chapter house, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Proximity of the primary educational institution to the proposed site.
 - iii. Methods of transportation from the proposed site to the primary educational institution.
 - iv. Concentration of dormitories, fraternities, or sororities in the neighborhood.

3. **Homeless Shelter.**

Defined. A facility that has a primary function of providing overnight sleeping accommodations in rooming units or bunk rooms to homeless people.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a homeless shelter, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. The current supply of overnight sleeping accommodations available within the city.
 - iii. The need for additional resources to properly address changes in demand.

4. **Lodging House.**

Defined. Residential occupancy of 4 or more rooming units by individuals, or up to 2 persons related by blood, marriage, adoption, or foster care agreement, for at least 30 days. Lodging houses include boarding houses, rooming houses and single room occupancy buildings.

a. **Required Standards.**

- i. All lodging houses shall be licensed at all times of operation.
- ii. The special permit granting authority may allow lodging houses located within ½ mile of rail transit (Green Line or Commuter Rail), or within ¼ mile of an MBTA bus stop, to reduce the number of required parking stalls to as little as 0.
- iii. All parking areas shall be screened from any adjacent residences and from the public way according to the requirements found at 8.4.2.B and 8.1.3.C.2.d.i.

b. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a lodging house, the Special Permit Granting Authority must find that the application meets the following criteria:

- i. The criteria for all Special Permits specified in Sec. 11.4.3.
- ii. The intent to diversify housing choices in Newton while respecting the residential character and scale of existing neighborhoods.
- iii. The need for less expensive housing options.
- iv. The proximity to transit.

5. **Nursing Home / Assisted Living.**

Defined. Residential occupancy in rooming units where room and board, personal services, and skilled nursing care is provided to tenants. Nursing homes include hospice care, but specifically exclude hospitals.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a nursing home/assisted living use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Characteristics of the local thoroughfare network in providing a walkable environment and access for emergency vehicles.
 - iii. Location, visibility, and design of the principal entrance, resident drop-off area, and outdoor amenity spaces.

9.2.3. Arts & Creative Enterprise Use Categories.

A. Artisan Production Uses.

Defined. Individuals and firms involved in the on-site production of hand-fabricated or hand-manufactured parts and/or custom or craft consumer goods through the use of hand tools or small-scale, light mechanical equipment. The artisan production category includes apparel manufacturing, breweries, cabinetry, chocolatiers, confectionery, furniture making, glass working, jewelry making, metal working, pottery, sculpture, wood working, and their substantial equivalents. Showrooms and the ancillary sales of goods produced on-site are permitted.

1. Required Standards.

- a. The production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effect is prohibited, except in the Fabrication district.
2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing an artisan production use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. The application includes appreciable methods to mitigate noise for abutting residential properties.
 - c. The application identifies location(s) of loading, trash and recycling storage, and the procedure for drop-off and pickup that are not detrimental to the neighborhood.

B. Arts Exhibition Uses.

Defined. The production, rehearsal, or live performance of cultural entertainment or artistic expression such as singing, dancing, comedy, literary readings, performance art, musical theater, live plays, and concerts. The arts exhibition category includes venues such as assembly halls, auditoriums, cinemas, concert halls, dinner theaters, gallery space, performance halls, rehearsal & preproduction studios, live theaters, and their substantial equivalents along with the administrative offices, booking agencies, and ticket sales of performing arts organizations.

C. Arts, Sales & Service Uses.

Defined. The display and retail sale, lease, or rental of finished artwork, art supplies, musical instruments, multi-media, or publications and activities that provide various arts

related services to individuals, groups, or businesses including galleries, supply stores, printing shops, set design studios, and their substantial equivalents.

1. Required Standards.

- a. Outdoor display of products and merchandise is permitted according to the following:
 - i. Outdoor display is permitted in any storefront frontage or on a public sidewalk subject to all City Ordinances as an ancillary activity.
 - ii. Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day.
 - iii. Display areas extending more than 8 feet from the front elevation are prohibited.
 - iv. A minimum 4 ft wide clear path must be maintained to the principal entrance and along any sidewalk or pedestrian path.
 - v. Display areas are permitted to occupy no more than 30% of the frontage area.
- b. Review Criteria. In its discretion to approve or deny a special permit authorizing an arts, sales and services use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Appreciable methods to mitigate noise for abutting residential properties.
 - iii. Location of loading, trash and recycling storage, and the procedure for drop-off and pickup.

D. Shared Workspaces & Arts Education Uses.

Defined. The transfer of knowledge or skills related to the creative enterprises through teaching, training, or research; organizations providing collaborative workplace facilities and business planning, finance, mentoring, and other business or administrative support services to creative enterprises; and multipurpose facilities dedicated to providing space for multiple creative enterprises. The shared workspace & arts education category includes arts centers, creative incubators, culinary incubators, design & fabrication centers, fabrication laboratories, and their substantial equivalents.

- 1. Review Criteria. In its discretion to approve or deny a special permit authorizing a shared workspace and arts education use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Appreciable methods to mitigate noise for abutting residential properties.
 - c. Location of loading, trash and recycling storage, and the procedure for drop-off and pickup.

E. Work/Live Creative Studio Uses.

Defined. Creative studio space consisting of not more than 1 room, including an area for accessory living, where the work needs of creative industry activities within the same building take precedence over any “quiet expectations” of the residents and neighbors residing in work/live creative studios within the same building.

1. Required Standards.

- a. Kitchen, dining, and bathroom facilities, excluding work sinks, must be shared between the tenants of each floor.
 - b. Floor area for accessory living space is limited to 200 sq. ft. or 30% of the total floor space of a Work/Live Studio, whichever is less.
 - c. The occupant(s) of the Work/Live Creative Studio must be a certified Artist.
2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a work/live creative studio, the Special Permit Granting Authority must find that the application meets the following criteria:
- a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Width of doorways and hallways to accommodate the moving of large objects.
 - c. Weight capacity of elevators to accommodate heavy equipment.
 - d. Access to natural light within each studio with a preference towards northern exposure.
 - e. Sound transmission co-efficient to prevent the transmission of sounds from equipment or repetitive tasks.
 - f. Ventilation and air handling techniques to ensure the safety and health of residents, visitors, and neighbors.
 - g. Ceiling heights that allow for the creation of large works and equipment, including machinery and lighting.
 - h. Weight-bearing capacity of the floor.
 - i. Ability to install flooring for specific users such as dancers or performers.

9.2.4. Civic & Institutional Use Categories.

A. Community Center Uses.

Defined. A place for recreational, social, educational, or cultural activities operated by a non-profit or public group or agency.

B. Hospital Uses.

Defined. An institution providing health services to patients and offering inpatient (overnight) medical or surgical care.

C. Minor Utility Uses.

Defined. Public and quasi-public facilities and services that need to be located in the area where the service is to be provided, such as water and sewer pump stations; electrical transforming substations; wind energy conversion systems; solar collector systems; water conveyance systems; gas regulating stations; storm water facilities and conveyance systems; telephone switching equipment; emergency communication warning/broadcast facilities; and central heating facilities.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a minor utility use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Need for a facility at the proposed site.

- c. Visual impact and quality of screening from abutting thoroughfares and surrounding properties.
- d. Impact and mitigation of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.
- e. Location of access for servicing the facility.

D. Major Utility Uses.

Defined. Infrastructure services that have substantial land use impacts on surrounding areas. Typical uses include, but are not limited to, water and wastewater treatment facilities, major water storage facilities, and electric generation plants.

E. Museum Uses.

Defined. A repository for a collection or collections of historical, natural, scientific, or artistic objects of interest.

- 1. **Required Standards.** Ancillary sales and the holding of meetings and social events are permitted.

F. Private, Non-Profit Club or Lodge Uses.

Defined. An organization, which is open to people upon invitation, nomination, or payment of fees or dues, for social, recreational, and /or entertainment activities.

1. **Required Standards.**

- a. A non-profit club or lodge must be managed by an association with elected officers and directors pursuant to a charter or by-laws, that generally excludes the general public from its premises, and which holds property for the common benefit of its members.
- b. A non-profit club or lodge shall not offer membership for a period of less than two months
- c. A non-profit club or lodge may serve meals and/or alcohol on the premises for members and their guests.
- d. A non-profit club or lodge may do event rentals, including the service of meals and/or alcohol.

2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a private, non-profit club or lodge use, the Special Permit Granting Authority must find that the application meets the following criteria:

- a. The criteria for all Special Permits specified in Sec. 11.4.3.
- b. Compatibility with the level of activity associated with the surrounding properties, particularly with regard to number and duration of events.
- c. Location of access to the site and building.
- d. Impact and mitigation of the production of offensive noise and light.
- e. Location of trash and recycling storage and the procedure for pick-up.

G. Public Service Uses.

Defined. Government services provided to the community at large including municipal operations of the City of Newton, such as departmental offices, social service facilities, and public works facilities; public safety services, such as police and firefighting

headquarters and substations; and open spaces reserved for social and recreational activities or natural resource protection.

H. Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3.

Defined. Activities related to providing general or specialized education, instruction, or training in subject areas, skills, or vocations and the practice of religions, including all accessory or ancillary activities customarily included in the operations of educational institutions and religious organizations.

1. Required Standards.

- a. Real property must be owned or leased by the Commonwealth of Massachusetts, a religious sect or denomination, or by a non-profit educational corporation.
- b. Real property must be used for an educational or religious activity (See Sec. 11.4.4).

9.2.5. Commercial Service Use Categories.

A. Animal Service Uses.

Defined. Any of the following: (1) grooming of dogs, cats, and similar small animals, including dog bathing and clipping salons and pet grooming shops; (2) animal shelters, care services, and kennel services for dogs, cats and small animals, including boarding kennels, pet resorts/hotels, dog training centers, and animal rescue shelters; (3) animal hospitals or veterinary services; (4) household pet crematory services; or (5) taxidermy services.

1. Commercial Kennel.

Defined. Animal rescue shelters, boarding facilities, pet resorts/hotels, or training services for dogs, cats, and other household pets.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a commercial kennel, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Methods or techniques for noise mitigation to limit noise for other users of the building and abutting properties.
 - iii. Operational procedures for cleaning the interior and exterior of the site and trash storage and removal.

2. Pet Day Care & Training.

Defined. Kennel and/or training centers for animals operated on a daytime-only basis.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a pet day care and training use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Methods or techniques for noise mitigation to limit noise for other users of the building and abutting properties.
 - iii. Operational procedures for cleaning the interior and exterior of the site and trash storage and removal.

3. **Pet Grooming.**

Defined. The grooming of dogs, cats, and similar household pets.

4. **Veterinarian.**

Defined. The diagnosis and treatment of animal patients' illnesses, injuries, and physical malfunctions performed in an office setting.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a veterinarian, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Methods or techniques for noise mitigation to limit noise for other users of the building and abutting properties.
 - iii. Operational procedures for cleaning the interior and exterior of the site and trash storage and removal.

B. **Assembly & Entertainment Uses.**

Defined. Uses that provide gathering places for participant or spectator recreation, entertainment, or other assembly activities including, but not limited to, a cinema, venue of a professional or semi-professional sports team, bowling alley, dance hall, but excluding those regulated under the Arts & Creative Enterprise Use Categories.

1. **Required Standards.**

- a. Assembly and entertainment uses may provide incidental food or beverage service for on-site consumption.
- 2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a assembly and entertainment use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility with the level of activity associated with the surrounding properties.

C. **Banking & Financial Service Uses.**

Defined. Uses related to the exchange, lending, borrowing, and safe keeping of money.

D. **Broadcast/Recording Studio Uses.**

Defined. Uses that provide studios for audio or video production, recording, filming, or broadcasting of radio or television programs over-the-air, cable, or satellite. Telecommunications transmission towers are regulated according to the provisions of Sec. 9.2.15 Wireless Communication Structures.

E. **Building & Home Repair Service Uses.**

Defined. Uses that provide maintenance and repair services for all structural and mechanical elements of structures, as well as the exterior spaces. Typical uses include janitorial, landscape maintenance, exterminator, plumbing, electrical, HVAC, window cleaning and similar services.

- 1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a building and home repair service use, the Special Permit Granting Authority must find that the application meets the following criteria:

- a. The criteria for all Special Permits specified in Sec. 11.4.3.
- b. Visual impact and quality of screening of parked business vehicles.

F. **Business Support Service Uses.**

Defined. Uses that provide personnel services, printing, copying, photographic services, or communication services to businesses or consumers. Typical uses include employment agencies, copy and print shops, telephone answering services, and photo developing labs.

G. **Caterer/Wholesale Food Production Uses.**

Defined. The preparation of food in significant quantities to be delivered and served or sold off-site.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a caterer/wholesale food production use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Visual impact and quality of screening of parked business vehicles.
 - c. Location of loading, trash, and recycling storage and the procedure for pick-up and drop-off.
 - d. Ventilation and air handling techniques to reduce the emission of odor or exhaust onto neighboring properties.

H. **Day Care Service Uses.**

Defined. Uses that provide licensed care, protection, and supervision in a protective setting for children or adults, with or without compensation, on a regular basis away from their primary residence and for less than 16 hours per day.

1. **Adult Day Care Center.**

Defined. A day care service use providing custodial care of adults over 18 years old, related or unrelated, who are in need of supervision and/or assistance with routine daily functions but who are not in need of regular medical attention.

2. **Child Day Care Center.**

Defined. A day care center as defined in M.G.L. 15D Section 1A.

I. **Educational Institution Uses.**

Defined. A facility for the general or specialized education, instruction, or training in subject areas, skills, or vocations including all accessory and ancillary activities customarily included in the operations of educational institutions in directly serving the needs of employees and students but does not meet the standards of a Religious & Educational Uses Protected by M.G.L. 40A. Sec. 3 (Sec. 9.2.4.H).

J. **Maintenance & Repair of Consumer Goods Uses.**

Defined. Uses that provide maintenance, cleaning, and repair services for consumer goods. Typical uses include dry cleaning shops, tailors, shoe repair, vacuum repair shops, electronics repair shops, and similar establishments.

K. **Personal Service Uses.**

Defined. Uses that provide a variety of services associated with personal grooming, personal instruction, and the maintenance of fitness, health, and well-being.

1. **Gym or Health Club.**

Defined. Use of space for physical exercise or training on an individual or group basis, using exercise equipment or open floor space, with or without an option for having instruction with a personal trainer.

2. **Funeral Home.**

Defined. A facility where the deceased are prepared for burial display and for rituals before burial or cremation. Such facilities may include chapels, crematoriums, and showrooms for the display and sale of caskets, vaults, urns, and other items related to burial services.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a funeral home, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
 - iii. Location, visibility, and design of the principal entrance.

3. **Health Care Provider.**

Defined. An office providing outpatient health services involving the diagnosis and treatment of physical or mental ailments and disorders, including doctors, dentists, mental health practitioners, physical therapists, and their substantial equivalents.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a health care provider, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Compatibility with the level of activity associated with surrounding properties.
 - iii. Location, visibility, and design of the principal entrance and patient drop-off areas.

L. **Recreation Uses.**

Defined. A facility providing for the communal or solitary, active or passive, indoor or outdoor pursuit of leisure activities.

- 1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a recreation use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility with the level of activity associated with surrounding properties.
 - c. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
 - d. Location, visibility, and design of the principal entrance and pedestrian circulation from all exit points.
 - e. Lighting and hours of operation.

9.2.6. Eating & Drinking Use Categories.

A. Restaurant/Café Uses.

Defined. An establishment preparing and selling ready-to-consume food and drinks for on-site consumption.

1. Required Standards.

- a. Outdoor seating is permitted on the lot or on a public sidewalk subject to the Revised Ordinances Chapter 12, Article 8.

2. Formula Eating and/or Drinking Establishment.

Defined. Any eating and/or drinking establishment which, along with 9 or more other businesses regardless of ownership or location worldwide, does or is required as a franchise, by contractual agreement, or by other arrangement to maintain 2 or more of the following features: a standardized menu; a standardized façade; a standardized décor and/or color scheme; a standardized uniform; a standardized sign or signage; or a trademark or a service mark. s

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a formula eating and/or drinking establishment, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. The existing concentrations of formula eating and/or drinking establishment uses within the commercial area or neighborhood.
 - iii. The availability of other similar eating & drinking establishment uses and the maintenance of a diverse blend of eating & drinking establishment uses within the commercial area or neighborhood.
 - iv. The compatibility of the proposed design for the formula eating & drinking establishment with the existing architectural and aesthetic character of the commercial area or neighborhood.
 - v. The existing non-residential vacancy rates within the neighborhood.

3. ~~Brewery-Uses.~~

Defined. An establishment producing alcoholic beverages for on-site consumption and purchase. The brewery use category includes breweries producing beer, wineries producing wine, and distilleries producing hard alcohol. A brewery use is distinguished from an artisan production use by the on-site consumption of food and beverages.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a brewery use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Compatibility with the level of activity associated with the surrounding properties.

9.2.7. Industrial Use Categories.

A. Commercial Dry Cleaning & Laundry Service Uses.

Defined. Uses that provide centralized dry cleaning and/or laundry services for other industrial, commercial, institutional, and/or business establishments.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a commercial dry cleaning and laundry service use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - c. Something environmental?

B. Data Center & Telecommunication Uses.

Defined. Uses providing information/data storage and processing services to other business or end users through a collection of computer servers and related information technology infrastructure as well as uses providing telecommunication system operation and maintenance.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a data center and telecommunications use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Mitigation of any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

C. Manufacturing Uses.

Defined. Uses that process, fabricate, assemble, treat, or package finished parts or products. Operations may include the storage of materials and the loading and unloading of materials and products. Activities common to this use category include, but are not limited to, food and beverage production, electronics and other electrical equipment assembly, medical appliances manufacturing, clothing and textile production, furniture and other woodworking products, boatbuilding, printing and publishing operations, and fabrication of metal products.

1. **Required Standards.**
 - a. Such use shall not be injurious, noxious, or offensive to the neighborhood by reason of noise, smoke, odor, gas, dust or similar objectionable features or dangerous to the neighborhood on account of fire or any other cause.
 - b. Ancillary retail sales, cafes, and showrooms are permitted where the products displayed or sold are made or produced on the premises.
 - c. The manufacturing or production of toxic and/or hazardous materials is prohibited.

D. Moving & Self Storage Uses.

Defined. Uses engaged in the moving of household or office furniture, appliances, and equipment from one location to another, including temporary storage of those same items. Typical uses include moving companies and self service and mini-storage warehouses.

1. **Self Storage Use.**

Defined. The temporary storage of personal possessions in containers or individual rentable or leasable spaces.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a self storage use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Mitigation of any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.
 - iii. Location of loading, trash, recycling, and the procedure for drop-off and pick-up.

E. Trash & Recycling Collection/Storage Uses.

Defined. Uses that collect and temporarily store household waste and/or recyclable materials including glass, cardboard, paper, aluminum, tin, plastics, and compostable yard waste that are regularly moved off-site to be processed elsewhere.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a trash and recycling collection/storage use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility with the level and type of activities associated with the surrounding properties.
 - c. Capacity of the local thoroughfare network providing access to the site.
 - d. Location and screening of loading, the procedure for drop-off and pickup, and the impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
 - e. Visual impact and quality of screening of parked business vehicles.

F. Vehicle Storage & Transportation Depot Uses.

Defined. Uses engaged in the dispatching and long-term or short-term storage of large vehicles or boats. Minor repair and maintenance of vehicles or boats stored on the premises is also included.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a vehicle storage and transportation depot use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility with the level and type of activities associated with the surrounding properties.
 - c. Capacity of the local thoroughfare network providing access to the site and the impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
 - d. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - e. Visual impact and quality of screening of parked or stored vehicles.
 - f. Ventilation and air handling techniques to reduce the emission of odor or exhaust onto neighboring properties.

G. Wholesale Trade & Distribution Uses.

Defined. Uses engaged in the wholesale collection, sorting, processing, and distribution of bulk mail, packages or commercial goods, storage, processing, and distribution of bulk goods including, but not limited to, furniture & home furnishings; professional and commercial equipment; electrical goods; hardware, plumbing, and heating equipment; paper and paper products; sundries; apparel; food and beverages; healthcare equipment and supplies; and their substantial equivalents to retailers, commercial services, and/or industrial businesses.

1. Required Standards.

- a. Ancillary retail sales and wholesale showrooms are permitted.
- b. Activities may include physically assembling, sorting, and grading goods into large lots and breaking bulk for redistribution in smaller lots in such a way that has minimal impact on surrounding properties.
- c. The wholesale and/or storage or warehousing of toxic and/or hazardous materials is prohibited.

9.2.8. Lodging Use Categories.

A. Bed & Breakfast Uses.

Defined. A single unit residential building type providing rooms for temporary, overnight lodging, with or without meals, for paying guests.

1. Required Standards.

- a. A bed & breakfast lodging use must be owner or manager occupied.
- b. A bed & breakfast lodging use may be located within a principal building and/or an accessory structure.
- c. A common gathering space, such as a parlor, dining room, or living room must be maintained for guest use.
- d. Cooking facilities are not permitted in guest rooms.

2. Review Criteria. In its discretion to approve or deny a special permit authorizing a bed and breakfast use, the Special Permit Granting Authority must find that the application meets the following criteria:

- a. The criteria for all Special Permits specified in Sec. 11.4.3.
- b. Transportation options provided to guests and the on-site management of parking.
- c. Operational procedures for limiting noise impacts on neighboring properties.
- d. Anticipated frequency of events/functions and food service is compatible with neighboring properties.

B. Hotel Uses.

Defined. A building providing temporary lodging in guest rooms or apartments to persons who have residences elsewhere for a fee.

1. Required Standards.

- a. A hotel use must provide for one or more employees to be on-site at all times.

2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a hotel use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility with the level and type of activities associated with the surrounding properties.
 - c. Capacity of the local thoroughfare network providing access to the site and the impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
 - d. Location and visibility of the principal entrance, guest drop-off area, outdoor amenity space, and pedestrian circulation from all exit points.
 - e. Location of loading, trash, and recycling storage and the procedure for pick-up and drop-off.

9.2.9. Motor Vehicle-Oriented Use Categories.

A. Commercial Vehicle Repair & Maintenance Uses.

Defined. Repair, installation, or maintenance of the mechanical components or the bodies of large trucks, mass transit vehicles, large construction equipment, or commercial boats.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a commercial vehicle repair and maintenance use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - c. Visual impact and quality of screening of vehicles.

B. Dispatch Service Uses.

Defined. The storage and dispatch of ambulances, taxis, limousines, armored cars, tow trucks, buses, and similar vehicles for specialized transportation, including where ambulance crews not located at a hospital or fire department stand by for emergency calls, ancillary professional offices, and/or minor vehicle service and maintenance repair.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a dispatch service use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Compatibility of the service with other surrounding properties.
 - c. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles, particularly with regard to driver sightlines.
 - d. Visual impact and quality of screening of vehicles.
 - e. Procedures for controlling emission of noxious or hazardous materials or substances.

2. Towing Service.

Defined. Storage of towed vehicles and/or the parking and dispatch of tow vehicles.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a towing use, the Special Permit Granting Authority must find that the application meets the criteria listed for a dispatch service use above.

C. Gasoline Station Uses.

Defined. Uses engaged in the retail sales of personal or commercial vehicle fuels.

D. Motor Vehicle Parking Uses.

Defined. The storage, for a limited period of time, of operable motor vehicles.

1. Off-Site Accessory Parking.

Defined. Motor vehicle parking that supports a principal use on a different lot.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing an off-site accessory parking use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - iii. Visual impact and quality of screening of vehicles.

2. Commercial Parking.

Defined. The rent or lease of parking stalls for motor vehicles on an hourly, daily, monthly, annually or other basis.

- a. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a commercial parking use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - iii. Visual impact and quality of screening of vehicles.

E. Personal Vehicle Repair & Maintenance Uses.

Defined. Repair, installation, or maintenance of the mechanical components or the bodies of automobiles, small trucks or vans, motorcycles, motor homes, or recreational vehicles or that wash, clean, or otherwise protect the exterior or interior surfaces of these types of vehicles.

- 1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a commercial parking use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
 - c. Visual impact and quality of screening of vehicles.

F. Vehicle Sale Uses.

Defined. Sale or rental of new or used motor vehicles including automobiles, small trucks or vans, motorcycles, motor homes, or recreational vehicles. Examples include car dealerships and car rental agencies.

1. **Required Standards.**

- a. On-site vehicle maintenance and repair is considered an additional principal use.
- b. Vehicles for display, sale, or lease must be located entirely within a building.

2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a vehicle sale use, the Special Permit Granting Authority must find that the application meets the following criteria:

- a. The criteria for all Special Permits specified in Sec. 11.4.3.
- b. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.

9.2.10. Office Use Categories.

A. **Co-Working Uses.**

Defined. A commercial or non-profit organization providing multiple individuals and small firms access to workplace facilities, including but not limited to, creative studios, office suites, for-rent 'hot-desks', dedicated workstations, conference rooms, meeting rooms, event space, resource libraries, and business or administrative support services.

B. **General Office Uses.**

Defined. The regular processing, manipulation, or application of business information or professional expertise predominantly for administrative, professional, and clerical operations in accounting, advertising, business to business brokerage and other business support services, employment, finance, healthcare administration, information technology and/or services, insurance, internet content development and publishing, law, non-profit organization, real estate, urban development and their substantial equivalents. Office activities may or may not provide direct services to the public.

1. **Required Standards.**

- a. Office uses do not include activities materially involved in fabricating, assembling, warehousing or sale of products for the retail or wholesale market.

C. **Research & Development and/or Laboratory Uses.**

Defined. The analysis, testing, and development of products, or services predominantly for scientific research operations in biotechnology, pharmaceuticals, medical equipment, communication & information technology, electronics, computer hardware, and their substantial equivalents.

1. **Required Standards.**

- a. Research & Development and/or Laboratory does not include activities involved in fabricating, assembling, warehousing, or sale of products for the retail or wholesale market.

- b. Ancillary development of mock-up and prototype products is permitted so long as the total floor area devoted to their fabrication or assembly is limited to 25% of the gross floor area occupied by the use.

9.2.11. Open Space Use Categories.

A. Farming Uses.

Defined. The cultivation of soil and the production, planting, caring for, treating, growing, and harvesting of any agricultural, aquacultural, horticultural, hydrocultural, floricultural, silvicultural, or viticultural commodities.

1. Community Gardening.

Defined. The practice of growing and cultivating plants; including vegetables, flowers, and fruits; for display, enjoyment, or private/personal consumption.

a. Required Standards.

Sales, processing, and storage of plants or plant products are prohibited on site.

B. Private Cemetery Uses.

C. Resource Extraction Uses.

Defined. The removal of resources such as sod, loam, subsoil, sand, or gravel from the premises for the purpose of sale.

- 1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a resource extraction use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. Stability of the ground relative to the impacts of the proposed use.
 - c. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.

9.2.12. Retail Use Categories.

A. Building/Home Supplies & Equipment Uses.

Defined. Uses that sell or otherwise provide furniture, appliances, equipment and/or home improvement goods needed to repair, maintain, or visually enhance a structure or premises that are typically too large to be carried by hand.

1. Required Standards.

- a. Outdoor display of products and merchandise is permitted according to the following:
 - i. Outdoor display is permitted in the private frontage or on a public sidewalk subject to City Ordinances as an ancillary activity.
 - ii. Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day.
 - iii. Display areas extending more than 8 feet from the front elevation are prohibited.

- iv. A minimum 4 ft wide clear path must be maintained to the principal entrance and along any sidewalk or pedestrian path.
- v. Display area are permitted to occupy no more than 30% of the frontage area.

2. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a building/home supplies and equipment use, the Special Permit Granting Authority must find that the application meets the following criteria:

- a. The criteria for all Special Permits specified in Sec. 11.4.3.
- b. Location of driveway entrances and access points in relation to the safety of pedestrians, bicyclists, and motor vehicles.
- c. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.
- d. Location of loading, trash, and recycling storage and the procedure for pick-up and drop-off.

B. Consumer Goods Uses.

Defined. Uses that sell or otherwise provide consumer goods, functional or decorative, for use in entertainment, comfort, or aesthetics which are of a size that a customer can typically carry by hand. Consumer goods stores include, but are not limited to, stores selling apparel and accessories, sundries, pharmaceuticals, hardware and hand tools, housekeeping supplies, plants and other gardening products, and convenience food and beverage for off-site consumption. The manufacturing, assembly, and/or packaging of merchandise is prohibited unless ancillary to the sale of products from the same location.

1. **Required Standards.**

- a. Outdoor display of products and merchandise is permitted according to the following:
 - i. Outdoor display is permitted in the private frontage or on a public sidewalk subject to City Ordinances as an ancillary activity.
 - ii. Outdoor display must be removed and placed inside a fully-enclosed building at the end of each business day.
 - iii. Display areas extending more than 8 feet from the front elevation are prohibited.
 - iv. A minimum 4 ft wide clear path must be maintained to the principal entrance and along any sidewalk or pedestrian path.
 - v. Display area are permitted to occupy no more than 30% of the frontage area.

C. Formula Retail.

Defined. Any use classified into a use category under section 9.2.12 Retail Use Categories, which, along with 9 or more other businesses regardless of ownership or location worldwide, does or is required as a franchise, by contractual agreement, or by other arrangement to maintain 2 or more of the following features: a standardized array of merchandise; a standardized façade; a standardized décor and/or color scheme; a standardized uniform; a standardized sign or signage; or a trademark or a service mark.

1. **Review Criteria.** In its discretion to approve or deny a special permit authorizing a formula retail use, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. The existing concentrations of formula retail uses within the commercial area or neighborhood.
 - c. The availability of other similar retail uses and the maintenance of a diverse blend of retail uses within the commercial area or neighborhood.
 - d. The compatibility of the proposed design for the formula retail use with the existing architectural and aesthetic character of the commercial area or neighborhood.
 - e. The existing non-residential vacancy rates within the neighborhood.

D. Fresh Food Market or Grocery Store Use.

Defined. The self-service sales of food and household products including, but not limited to, fresh and prepared meat, dairy, baked goods, fresh fruits and vegetables, canned and/or frozen foods, and other regularly consumed household products.

1. **Required Standards.**
 - a. Floor area devoted to the sale of non-food items must not exceed twenty-five percent (25%) of the sales floor.
 - b. Ancillary prepared food and beverage service is permitted.

E. Farmer/Vendor Market Uses.

Defined. The direct sales of goods and/or products by farmers or vendors to consumers from individual booths, tables, or stands, whether indoors or outdoors.

9.2.13. Restricted Use Categories.

A. Adult Entertainment Uses.

Defined. Any use engaged in the sale of products or the display of video or live shows, where a significant portion of its stock in trade, or the emphasis of the videos or shows, have to do with or depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31. Adult entertainment includes, but is not limited to, adult bookstore, adult motion picture theatre, adult paraphernalia store, adult video store, and adult night club, as defined by M.G.L. Chapter 40A, Section 9A. For the purposes of this section, a significant portion of stock in trade is defined as at least 15%. Adult entertainment uses are not included within the consumer goods use category, the assembly and entertainment use category or any other use category.

1. **Purpose.** The purpose of this Sec. 9.2.13.A is to address and mitigate the secondary effects of adult entertainment uses that are referenced and defined herein. Secondary effects have been shown to include urban blight, increased crime, adverse impacts on the business climate of a city, adverse impacts on property values, adverse impacts on the tax base and adverse impacts on the quality of life in a city. All of said secondary impacts are adverse to the health, safety, and general welfare of the City and its inhabitants.
2. **Intent.** The provisions of this Sec. 6.10.1 have neither the purpose nor the intent of imposing a limitation on the content of any communicative matter or materials, including sexually-oriented matter or materials. Similarly, it is not the purpose or

intent of this ordinance to restrict or deny access by adults to adult entertainment establishments or to sexually-oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights of distributors or exhibitors of such matter or materials. Neither is it the purpose or intent of this ordinance to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

3. **Required Standards.**

- a. As measured by a straight line from property line to property line, an adult entertainment use must not be located within:
 - i. 500 feet of the nearest religious use, school, public park intended for passive or active recreation, youth center, day care facility, family day care facility, center for child counseling, great pond, or navigable river;
 - ii. 1,000 feet from any other adult entertainment use, whether in Newton or in a neighboring municipality, nor within 1,000 feet of a zoning district in a neighboring municipality allowing an adult entertainment use;
 - iii. 500 feet from an establishment manufacturing, selling, serving, or storing alcoholic beverages;
 - iv. 150 feet of any residential property.
- b. Notwithstanding building type or district requirements to the contrary, all building openings, entries, and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.
- c. Material that depicts, describes or relates to nudity or sexual conduct as defined in M.G.L. Chapter 272, Section 31 must not be located in or on the building housing such adult use in a way that is visible to the public from the outside of the premises in which an adult entertainment use is permitted. Advertising, or other material, whether displayed in the window or affixed to the building must not depict, describe or relate to nudity or sexual conduct as defined in M.G.L. Chapter 272, Section 31.
- d. An adult entertainment use must not disseminate or offer to disseminate adult matter or paraphernalia to minors or suffer minors to view displays or linger on the premises.
- e. An adult entertainment use is not permitted to have a free-standing accessory sign.
- f. An adult entertainment use is not permitted to be open between the hours of 11:30 p.m. and 6:00 a.m.
- g. An adult entertainment use is not permitted to serve, or allow to be consumed on premises, alcoholic beverages.

4. **Review.**

- a. **Application.** An application shall be submitted in accordance with section 11.4. The following additional materials are required for an application:
 - i. Name and address of the legal owners of the proposed establishment.
 - ii. Name and address of all persons having legal, beneficial, equitable or security interests in the adult use.

- iii. Name and address of the establishment's manager(s).
 - iv. The number of employees.
 - v. Proposed security precautions.
 - vi. A map showing all properties within 1,000 feet of the property boundary.
 - vii. A plan of the physical layout of the proposed premises showing, among other things, the location of the adult books, adult paraphernalia, or adult videos.
 - viii. A sworn statement that neither the applicant nor any persons having legal, beneficial, equitable or security interests in the establishment has been convicted of violating M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28.
- b. The legal owner of an adult entertainment use having received a special permit shall promptly notify the special permit granting authority of any changes in the above information within 10 days and failure to do so will be grounds for revocation of the special permit.
- c. **Review Criteria.** In its discretion to approve or deny a special permit authorizing an adult entertainment use, the Special Permit Granting Authority must find that the application meets the following criteria:
- i. The criteria for all Special Permits specified in Sec. 11.4.3.
 - ii. The compatibility of the proposed design for the adult entertainment use with the existing architectural and aesthetic character of the commercial area or neighborhood.
 - iii. The level of crime and/or blight in the vicinity of the proposed location and the proposed security precautions.
 - iv. No special permit shall be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28 or registered with or required to be registered under the Sex Offender Registration Law, M.G.L. Chapter 6, Sections 178C et. seq., or its successor.
- d. **Expiration.** A special permit to conduct an adult entertainment use expires after a period of 2 calendar years from its date of issuance and is eligible for renewal for successive two-year periods thereafter, provided that a written request for such renewal is made to the special permit granting authority prior to said expiration and that no objection to said renewal is made and sustained by the special permit granting authority based upon notification of adverse changes regarding the public safety factors applied at the time that the original special permit was granted.
- e. **Existing Adult Entertainment Uses.** Any adult entertainment use in existence upon the effective date of this Sec. 9.2.13 shall apply for an adult entertainment use special permit within 90 days of the adoption of this Sec. 9.2.13.

B. Gambling Uses.

Defined. Any use in which participants are engaged in the wagering of money enabled by, under the supervision of, or otherwise with the consent of the property owner. When including wagering, such uses include, but are not limited to, keno, sports betting, card or dice games, or slot machines, but do not include the sale of lottery tickets. A gambling use is never considered an accessory use.

1. **Purpose.** Whereas the deleterious effects of gambling and wagering on individuals, families and the public health, safety, convenience and welfare are known and documented, it is the policy of the City to regulate and condition the operation of establishments allowing Keno, or similar games of chance, entertainment or amusement, whether operated live or through audio or video broadcast or closed-circuit transmission, and to prohibit persons under 18 years of age from engaging in or participating in any manner in such games of chance, entertainment or amusement.
2. **Required Standards.** No building or structure, or any portion of a building or structure, shall be used for a gambling use unless the following conditions are met:
 - a. It must be a restaurant-business which is duly licensed by the Newton Board of Licensing Commissioners pursuant to both M.G.L. Chapter 140 as a common victualler selling prepared food to patrons and pursuant to M.G.L. Chapter 138, Section 12, whereby alcoholic beverages may be sold to and drunk on the premises by patrons. The alcoholic beverages license may be either an “all alcoholic beverage” license, or a “wine and malt beverages” license.
 - b. The restaurant-business must provide a lounge or similar area within the premises which is physically separated from the regular dining area by a wall, partition or other means deemed acceptable to the Newton Board of Licensing Commissioners. Keno, or similar games of chance, entertainment or amusement shall be restricted to this separate lounge or similar area. The restaurant-business shall not permit minors unaccompanied by a parent or adult guardian to enter, occupy, or remain in the restricted lounge or similar area, and shall prominently post signs to this effect.
 - c. No restaurant-business shall provide more than 2 video monitors for broadcast or closed-circuit transmission of Keno or similar games of chance, entertainment or amusement in the aforesaid lounge or similar area. Said limitation shall not apply to regular television programming of network, independent television stations, or television stations provided by cable, satellite, or similar systems.
 - d. No person under 18 years of age shall be permitted to engage in or participate in any manner in Keno or other such games of chance, entertainment or amusement, pursuant to this Sec. 6.10.1, M.G.L. Chapter 10, Section 29, as amended, and the regulations promulgated thereunder, including, but not limited to 961 CMR 2.00, 2.20(3) and 2.27(5).
3. **Violation.** Any establishment found to have violated state laws or regulations or the provisions of this section regarding the prohibition of minors in this regard shall be deemed an unlawful use in violation of this Chapter, and shall be subject to enforcement proceedings and penalties provided under M.G.L. Chapter 40A, Section 7, and this Chapter.
4. **Penalties.** Any ‘person’, including a business as defined in the Massachusetts Lottery Commission regulations, 961 CMR 2.03, which is found to have violated state laws or regulations regarding prohibition of minors in this regard shall be subject to the statutory penalties of M.G.L. Chapter 10, Section 29, as amended, and revocation of their license as a lottery sales agent pursuant to state law, including but not limited to Massachusetts Lottery Commission regulations 961 CMR 2.00, 2.13(1), 2.20(3) and 2.27(5).

5. **No Affirmative Rights are Granted by this Sec. 6.10.2.** The City shall not be precluded from exercising any legislative powers it may now have or which may be granted to the city by the General Court in future legislative enactments to prohibit or further regulate Keno, or similar games of chance, entertainment or amusement.
6. **Existing Keno License.** Any ‘person’, including a business as defined in the Massachusetts Lottery Commission regulations, 961 CMR 2.03, who has filed prior to June 10, 1996 an application for a Keno license with the Massachusetts Lottery Commission and who thereafter receives from said Commission a valid Keno license, pursuant to M.G.L. Chapter 10, Section 27A, will be exempt from the provisions of paragraphs 2.a., 2.b., and 2.c. above, but only at the location for which the application was filed prior to June 10, 1996.

C. **Marijuana Uses.**

1. **Marijuana Establishment Uses.**

Defined. The following uses collectively define Marijuana Establishment Uses, as defined or amended by 935 CMR 500.000.

- a. **Craft Marijuana Cooperative.** A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport to Marijuana Establishments, but not to consumers.
 - b. **Independent Testing Laboratory.**
 - c. **Marijuana Cultivator.**
 - d. **Marijuana Product Manufacturer.**
 - e. **Marijuana Research Facility.**
 - f. **Marijuana Retailer.**
 - g. **Marijuana Transporter.**
 - h. **Microbusiness.**
2. **Registered Marijuana Dispensary (RMD) Uses.**
 3. **Required Standards for All Marijuana Uses.**
 4. **Required Standards for Marijuana Establishment Uses and Registered Marijuana Dispensary Uses.**
 5. **Review.**
 - a. **Application.**
 - b. **Review Criteria for All Marijuana Uses.**
 - c. **Review**

9.2.14. **Accessory Use Categories.**

A. **Accessory Apartments.**

Defined. A separate secondary dwelling unit located in a single or two-unit residential building, or in a detached building located on the same lot as a single or two-unit residential

building, as an accessory and subordinate use to the primary ~~residential-Household Living~~ use of the property, provided that such separate dwelling unit has been established pursuant to the provisions of this Sec. 9.2.14.A. An internal accessory apartment is located within the principal building on a lot. A detached accessory apartment is not located in the principal building but is located in a separate detached accessory building.

1. **Intent.** Accessory apartments are an allowed accessory use where they are, by design, clearly subordinate to the principal dwelling unit, meeting the requirements of the following section. Accessory apartments are intended to advance the following objectives:
 - a. Diversify housing choices in the City while respecting the residential character and scale of existing neighborhoods;
 - b. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
 - c. Create more housing units with minimal adverse effects on Newton's neighborhoods;
 - d. Provide flexibility for families as their needs change over time and, in particular, provide options for seniors to be able to stay in their homes and for households with disabled persons; and
 - e. Preserve historic buildings, particularly historic carriage houses and barns.
2. **Allowed Building Types.** An accessory apartment may be located in a House A, House B, House C, House D or ~~Duplex-Two-unit Residence~~ building type or on the same lot as a House A, House B, House C, House D or ~~Duplex-Two-unit Residence~~ building type.
3. **Rules for All Accessory Apartments.**
 - a. An accessory apartment cannot be held in separate ownership from the principal structure/dwelling unit;
 - b. No more than 1 accessory apartment ~~shall be~~ allowed per lot;
 - c. The property owner must occupy either the principal dwelling unit or the accessory apartment;
 - d. The total combined number of individuals residing in the principal and accessory dwelling units may not exceed the number allowed in the principal dwelling unit alone, under Sec. 9.2.2.A and other applicable sections;
 - e. The principal dwelling unit must have been constructed 4 or more years prior to the date of application for a permit to construct an accessory apartment as evidenced by a certificate of occupancy for the original construction of the dwelling or, where no certificate is available, the owner provides other evidence of lawful occupancy of the existing dwelling on or before a date at least 4 years prior to the date of application, except by special permit;
 - f. Where the accessory apartment or the principal dwelling is occupied as a rental unit, the minimum occupancy or rental term shall be 30 days;
 - g. No additional parking is required for the accessory apartment. If parking for the accessory apartment is added, however, screening is required sufficient to minimize the visual impact on abutters, such as evergreen or dense deciduous plantings, walls, fences, or a combination;

- h. Before a Certificate of Occupancy is issued the property owner of any accessory apartment shall record with the Registry of Deeds for the Southern District of Middlesex County, or with the land court, a certified copy of the decision or of the determination from the Commissioner of Inspectional Services granting the accessory apartment and certified copies shall be filed with the Department of Inspectional Services, where a master list of accessory apartments shall be kept, and with the Assessing Department;
- i. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 9.2.14.A and with 780 CMR; and
- j. The property owner ~~shall~~must file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 9.2.14.A and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

4. Rules for Internal Accessory Apartments.

- a. An Internal Accessory Apartment ~~shall~~must be a minimum of 250 square feet and a maximum of 1,000 square feet or 33 percent of the total Habitable Space in the principal dwelling, as defined in Sec. 8.3, whichever is less. The applicant may request a special permit for a larger Internal Accessory Apartment up to 1,200 square feet or 40 % of the total Habitable Space, whichever is less.
- b. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:
 - i. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;
 - ii. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;
 - iii. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;
 - iv. Windows should be consistent with those of the remainder of the building in proportion and orientation;
 - v. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building;
 - vi. The Commissioner of Inspectional Services, or the special permit granting authority in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above criteria. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C)(4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any

decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.

- c. Only one entrance may be located on the front elevation of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.

5. Rules for Detached Accessory Apartments.

- a. Except as provided below, a Detached Accessory Apartment may be allowed by special permit as a use accessory to a single or two-unit residential building.
- b. A Detached Accessory Apartment ~~shall~~ **must** be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the total Habitable Space of the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Detached Accessory Apartment up to 1,500 square feet.
- c. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted provided they are in keeping with the architectural integrity of the existing structure and/or the principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C) (4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.
- d. The Detached Accessory Apartment must be at least 6 feet from the principal dwelling unit on the site.
- e. The Detached Accessory Apartment must meet the setback requirements of the principal dwelling unit and other applicable dimensional controls, except by special permit.
- f. Except as required above, a Detached Accessory Apartment is subject to the dimensional requirements of an Accessory Building in the zoning district that the lot is located in. For the purposes of this section, the Commissioner of Inspectional Services may determine which lot line is the front on corner lots.
- g. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Apartment in an historic accessory building located outside of an historic district, may be allowed by right without requiring a special permit, and only subject to the rules in this subsection 5.g.

- i. The proposed Detached Accessory Apartment will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection 5.g, the structure must qualify and be deemed as “historically significant” under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission;
 - ii. The proposed Detached Accessory Apartment will be greater than 15 feet from an existing residential dwelling on an abutting property, except by special permit; and
 - iii. Any exterior alteration of the building to permit the creation of the Detached Accessory Apartment will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission.
6. **Review Criteria.** In its discretion to approve or deny a special permit authorizing an accessory apartment use or to modify or waive dimensional or other requirements as identified in this section 9.2.14.A, the Special Permit Granting Authority must find that the application meets the following criteria:
 - a. The criteria for all Special Permits specified in Sec. 11.4.3.
 - b. The consistency of the proposed exterior design for the accessory apartment with the existing architectural and aesthetic character of the existing building and neighborhood.
 - c. The citywide need for a diverse array of housing choices.
7. **Invalidity Clause.** If it is determined by a court of competent jurisdiction that any provision or requirement of Sec. 9.2.14.A. is invalid as applied for any reason, then Sec. 9.2.14.A. must be declared null and void in its entirety.

B. A.T.M.

Defined. An automated teller machine operated as an accessory use to a commercial establishment other than a banking or financial services use.

C. Car Share & Bike Share.

Defined. Parking for bikes or motor vehicles that are made available for hourly or daily rental fee, typically to members of a bike or car share service.

D. Commercial Vehicle Parking.

1. **Defined.** The parking of any vehicle, conveyance or piece of mechanized equipment which is used to further any business, trade, profession or employment, and which meets any 1 or more of the following criteria:
 - a. There is affixed on it any writing or logo that designates an affiliation with any business, trade, profession or employment.
 - b. It is used to store, in a manner or place that is visible from outside of the vehicle, any tools, equipment, accessories, body height extensions or other things used to further any business, trade, profession or employment.
 - c. It is used to transport persons, their luggage, and/or their animals or other materials for any kind of fee or charge.

- d. It has a mechanized dumping capability.
- e. It has a plow blade or plow blade frame or other device attached, or a plow blade or other device associated with the vehicle is stored on the premises.

2. **Required Standards.** In any residential district commercial vehicles must not:

- a. Exceed 18 feet in length or 7 feet in width.
- b. Contain more than 4 square feet of advertising on any one side.
- c. Be stored between any front line of the principal building and the street line, or in the side or rear setback unless stored within a garage or other enclosure.

E. **Food Trucks.**

Defined. Defined in City Ordinances Sec. 20-88.

1. **Intent.** Food trucks are intended to advance the following:

- a. Bring variety to the availability of local food establishments.
- b. Add vibrancy and interest to the street life of a district.
- c. Encourage the advancement of new restaurants and food service businesses by serving as a form of business incubator for new restaurant ideas in a start-up phase.
- d. Create food options and amenities for underserved locations in the City.

2. **Required Standards.**

- a. In the Public Use District, Food Trucks must only locate on the public street 'Wells Avenue' according to City Ordinances Sec 20-88 and 20-92. Food Trucks are allowed on public land as part of a special event with a license from the Health Department.
- b. A Food Truck must not remain parked overnight.
- c. A Food Truck is not required to provide parking.
- d. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
- e. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts.

F. **Home Business Uses.**

Defined. A commercial occupation carried on by a resident of a dwelling unit where the occupation is secondary to the use of the dwelling unit for residential purposes and where the "quiet expectations" of neighbors takes precedence over work needs of the occupation. A home business must be a use from the following use categories; Artisan Production; Building & Home Repair Services; Day Care Services; Maintenance & Repair of Consumer Goods; Personal Services; and General Office.

1. **Required Standards.**

- a. The home business must be operated within a completely enclosed principal or accessory building owned or occupied by the resident of the property where the home business is located. The home business must be operated by said resident.

- b. The Home Business must not change the residential character of the dwelling.
- c. The Home Business must not occupy more than 25% of the useable floor area of the dwelling unit or **must** be located within an Accessory Building that meets the requirements for accessory buildings for the zoning district in which the lot is located.
- d. No storage of materials, supplies, or equipment is permitted outdoors.
- e. No display of products may be visible from the right-of-way of any public street.
- f. Commercial signs are prohibited except as allowed for Home Business in Sec. 8.2.
- g. Shipping and delivery is restricted to parcel and small freight carriers.
- h. No more than one off street parking space is permitted for the Home Business.
- i. The Home Business must not produce noise, vibration, glare, fumes, odors, electrical interference, or traffic congestion beyond that which normally occurs in the immediate residential area or that might unreasonably interfere with any person's "quiet expectations" in enjoyment of their residence.
- j. Products produced on-site must be grown, fabricated, or assembled by hand.
- k. No more than one non-resident employee may be present at any one time during the hours of operation.
- l. Retail sales to walk-in customers are prohibited.
- m. Not more than three clients, customers, or pupils for business or instruction shall be present at any one time.
- n. Client, customer, or pupil visits must be by appointment only and business activities may not have more than one visitor car at a time.

2. [Home Day Care.](#)

Defined. A home business providing custodial care of children under 7 years of age or children under 16 years of age if such children have special needs. Home day care does not include the informal cooperative arrangement for child care among neighbors or relatives, or the occasional care of children with or without compensation.

a. Required Standards.

The requirements of Sec 9.2.14.F.1 apply to home day care except care may be provided for no more than 6 children at a time, including any children living with the residence providing home day care services.

G. [Pop-Up Store](#)

A retail store, restaurant, or similar (use use categories) temporarily occupying space for up to two months. Is not a Hawker as defined under City Ordinances.

- 1. No parking requirement – this may already be said where it says accessory uses don't have parking reqs.
- 2. No sign review required.

3. Allowed in existing storefronts or in temporary buildings or trailers.
4. In the use table, allow in the public use district.

H. Short Term Rental.

Defined. The rental of ~~an owner-occupied one or more bedrooms (along with any associated living areas) within a dwelling unit, or portion thereof,~~ on an overnight or short-term basis of less than 30 days ~~to guests (typically less than 7 days) by the resident of the dwelling unit.~~ Short Term Rentals are accessory to a Household Living use.

1. Required Standards.

- a. A resident seeking to operate a Short Term Rental must register with the City in accordance with Sec XXX of the Revised Ordinances of the City of Newton.
- b. The ~~property owner~~resident of the dwelling unit must ~~reside-occupy on the property-dwelling unit~~ for a minimum of 185 days ~~a-during each calendar year.~~
- c. The total number of residents and guests may not exceed the maximum allowed in a Household Living uses at any time according to Sec. 9.2.2.A.
- d. The maximum number of bedrooms on the site that can be rented to overnight or short term guests is 2.
- e. No signage associated with a Short Term Rental~~A property, or portion thereof, may be used for short term rental for a maximum of 90 days in a calendar year.~~
- f. A property used for short term rental may not be rented for a commercial event during its use for a short term rental.
- g. The burden of proof is placed on the ~~property owner~~resident registered with the City as the operator of the Short Term Rental to demonstrate that they are operating within the limits of this section.

I. Rental of a Residential Property for a Commercial Event.

Defined. The rental of a residential unit, or portion thereof, for a commercial event such as a party rental, promotional event, or filming.

1. Required Standards.

- a. A commercial event may not coincide with use of the property for short term rental.
- b. Commercial events must comply with the City Noise Ordinance.
- c. The burden of proof is placed on the property owner to demonstrate that they are operating within the limits of this section.

9.2.15. Wireless.

[Same as Existing]