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WORKING SESSION MEMORANDUM

DATE: April 5, 2013

TO: Alderman Marcia Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner for Long Range Planning

RE: Zoning Reform, Phase 1

MEETING DATE: Working Session on April 8, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

Lee Einsweiler from Code Studio will be returning to the Zoning and Planning Committee on April 8th to discuss the *Zoning Ordinance Assessment Memo* included in your packets and available online. The Assessment offers a comprehensive look at the challenges of the existing zoning ordinance and suggests a number of formatting changes and clarifications that would serve to modernize and make the ordinance more understandable and useable to the average Newton resident or business owner. Given the frequency with which people in Newton must refer to the zoning ordinance and the significant impacts it has on individual property owners and neighborhoods, it is essential that the ordinance be clearly understandable and easy to use.

Each chapter in the assessment begins with a list of recommended improvements for Newton's Zoning Ordinance that constitute the proposed work plan for completing Phase 1. As the Committee discusses each chapter of the assessment with Lee and Planning staff, there will be an opportunity for members to identify individual recommendations from these lists for the Committee to consider removing from the work plan for this phase of the overall zoning reform project.

The Planning Department is looking forward to an engaging discussion with ZAP and our zoning consultant on Newton's Zoning Ordinance and the proposed changes. Please take the time to thoroughly review the Zoning Assessment and compare its findings with your own experiences with the existing zoning ordinance.

Chapter 30. Zoning
ASSESSMENT MEMO
Newton, Massachusetts

March 25, 2013

Prepared by: Code Studio and Joel Russell

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1. INTRODUCTION & SUMMARY

The City of Newton has engaged national planning and development code consultants Code Studio to prepare an assessment of the City's zoning ordinance (Chapter 30 of the City Code). The first phase of the project will focus on creating a draft zoning ordinance that has been reformatted, organized, clarified and illustrated. This document will be adopted by the Board of Aldermen and serve as a basis for a later phase of the project that will evaluate policy changes in the zoning ordinance for consistency with Newton's *Comprehensive Plan* (2007).

Purpose of Assessment

The process of zoning reform in Newton was initiated in January 2011 when Mayor Setti Warren and the Board of Aldermen created a Zoning Reform Group charged with determining short-and long-term reform objectives, researching best practices from other communities that have conducted zoning reform, and identifying resources and funding to support the reform process. The group met over the course of one year and issued a report in December 2011, recommending a two-phase zoning reform process. The Zoning Reform Group concluded that the City of Newton zoning ordinance should:

- Be easy to use, administer and enforce;
- Be well-organized, indexed and cross-referenced;
- Use clear, precise and contemporary language;
- Be internally consistent;
- Produce predictable, desired results;
- Balance flexibility and predictability; and
- Support the vision expressed in the Comprehensive Plan.

As a result of this process, Newton has committed to updating the zoning ordinance. As a precursor, the City has decided to assess, reformat and reorganize the existing regulations to provide a more user-friendly platform on which to build the eventual policy changes desired. This assessment is the first step, providing a road map that describes the extent of change proposed during the reformatting and reorganization process. The assessment evaluates the zoning ordinance against national and regional best practices and recommends ways to generate a more modern, user-friendly and streamlined ordinance.

Methodology

In preparing this report, Code Studio reviewed the existing zoning ordinance. While our study of the ordinance provides a foundation for understanding the regulatory framework, it was the time we spent touring the community, reviewing projects that have been built under the existing regulations, and meeting with City staff, the Zoning Reform Advisory Group and the Zoning & Planning Committee of the Board of Aldermen that provided the details of the problems and opportunities facing Newton.

Assessment Organization

This report is an assessment critique of the zoning ordinance. It is organized around five chapters. The chapters address features that permeate the entire code, such as organization and format, as well as specific attributes such as districts and uses, development standards, and process and administration. Each chapter begins with a quick reference list of suggestions contained in the chapter.

Key Phase I Findings

At the beginning of each of the following chapters, a summary of recommended revisions is provided. These revisions are intended to be made during this initial phase of the project. Phase 2 (policy) revisions are identified periodically throughout this document, but will not take place during this initial revision of the zoning ordinance.

This assessment of the existing zoning ordinance is intended to identify technical problems and suggest solutions related to the ordinance's structure, organization, readability, internal consistency, user-friendliness, legality and use of language. It purposely avoids extensive discussion of policy issues, since policy issues will be addressed in a phase 2 of the zoning revision project. The goal of this memo is to lead to a first-phase revision of the ordinance that does not make substantive policy changes, but rather makes the existing zoning, and the policy choices it represents, easier to understand and use.

"Policy-Neutral"

Changing the order in which subjects are addressed, standardizing heading conventions and cross-references, correcting typographical errors and statutory citations, and like matters do not have policy implications. However, many of the changes requested by those interviewed at the beginning of this process, which seem at first glance not to be "policy" matters, turn out to have significant policy implications. For example, changing or adding definitions requires deliberation as to what a word should mean, which in many cases can make a substantial difference in the policies implemented by the ordinance. Indeed, any form of simplification means making policy decisions as to what is important to keep and what aspects of the complexity are dispensable or should be condensed or simplified. Presumably there was a reason for each element of the complexity.

Due to the difficulty of doing a totally "policy-neutral" revision of key substantive parts of the zoning ordinance, this memo suggests 1) the kinds of changes the consultant feels are "policy neutral," 2) those changes that represent minor policy revisions, and 3) those changes that are better left for phase 2, when substantial policy decisions will be considered. The Zoning & Planning Committee of the Board of Aldermen will review this document, and where they concur with the recommended revisions, changes to the existing zoning ordinance will be made.

ASSESSMENT CONTENTS

1. Introduction & Summary
2. Organization & Format
3. Districts & Uses
4. Development Standards
5. Process & Administration

2. ORGANIZATION & FORMAT

When a community's rules for development are difficult to find, read and understand, they take more time to use. This means that applicants unnecessarily spend time and money trying to figure out the rules and City staff spend time trying to explain, interpret and enforce them. Further, ambiguity as to the rules can add to the uncertainty among neighbors who may not understand how their neighborhood could change.

The most effective regulations are logically organized and clearly written. They contain the rules necessary for laying out development in one easy to access location, and convey information with plain language that is backed up with clear graphics. The following sections examine the organization and format of the zoning ordinance and make specific recommendations for improving both.

Recommended Revisions

- ☑ Reorganize the zoning ordinance into the recommended Articles
- ☑ Replace the City's numbering system with simpler numbers that allow better navigation
- ☑ Apply plain language drafting principles
- ☑ Add graphics as often as possible
- ☑ Add tables where useful
- ☑ Use hyperlinks for cross-references and table of contents
- ☑ Capitalize key terms such as Board of Aldermen
- ☑ Eliminate use of footnotes
- ☑ Locate content-specific definitions near that content
- ☑ Create improved header/footer
- ☑ Use enhanced section and subsection titling fonts
- ☑ Remove regulatory material from definitions

Outline Comparison

Current

Currently, the zoning ordinance consists of seven articles. Articles addressing process and general provisions are scattered throughout the ordinance and are interlaced with site development standards.

ART. I. IN GENERAL

ART. II. USE REGULATIONS

ART. III. PARKING AND LOADING FACILITIES

ART. IV. ZONING ADMINISTRATION

ART. V. MISCELLANEOUS

ART. VI. ZONING BOARD OF APPEALS

ART. VII. MISCELLANEOUS; ENFORCEMENT

Proposed

One approach to improving the navigability of the regulations is to reorganize and consolidate the articles. An example of what a reorganized zoning ordinance might look like is below. In general, Articles should be of similar length and importance. For example, if all of the zoning districts were combined in a single Article, it would be the longest part of the document by far, so splitting it into residential and mixed use districts helps manage the Article length. The naming of the Articles of the document should also be intuitive, allowing the user to understand where to start in the document.

Article 1. General Provisions

The existing general provisions, plus establishment of districts.

Article 2. Residential Districts

Residential zoning district intent and dimensional standards.

Article 3. Mixed Use and Employment Districts

Existing business, manufacturing and mixed use district intent and dimensional standards.

Article 4. Use Regulations

A consolidated use table and all use regulations (principal, accessory and temporary).

Article 5. Development Standards

Development standards for all sites (parking, loading, signs).

Article 6. Administration

Existing material from Zoning Administration, Zoning Board of Appeals, Nonconformities and Enforcement.

Article 7. Definitions

Existing definitions.

Paragraph Numbering

An accurate and consistent paragraph numbering system is as important as document organization in creating a user-friendly document. The zoning ordinance follows the City Code numbering system, for the most part (although some sections are mis-numbered).The current system is set out below, including its title fonts and indents. Much of the formatting is related to what could be achieved

ARTICLE I. ARTICLE TITLE TEXT

Sec. 30-1. Section Title Text.

(a) *Subsection title here.* Text here . . .

(1) Text here . . .

a) Text here . . .

1) Text here . . .

A few comments on the current system:

- Roman numerals are difficult for many people and should be avoided.
- With modern font technology, parentheses are unnecessary.
- The current subsection level (a) returns to the left margin on subsequent lines, while all other levels use hanging indents. This obscures the subsection title and numbering.
- None of the levels refer to prior levels of the document.

While it would not match the current City Code, we encourage the City to consider a numbering convention like that shown below, including bolder titling fonts, using numbering that refers back to prior levels to improve document navigation, and perhaps even color to highlight titles.

Article 30.1 Article Title Text

Sec. 30.1.1. Section Title Text

A. Subsection Title Here. Text here . . .

1. Text here . . .

a. Text here . . .

i. Text here . . .

Plain Language Drafting

Legal Terminology

The trend in regulations is to eliminate outdated legal terminology in favor of a more plain language approach to drafting. Eliminating terms such as "herein", "henceforth", or "said" and, where possible, replacing "shall" with "must" will improve the overall readability of the code. For example, the zoning ordinance contains the following provision in Sec. 30-6:

> "No other use or design and arrangement of any such land, structure or building thereon or thereover except as provided above shall be permitted until the land concerned shall have been rezoned in accordance with this chapter.

This verbose provision contains language that is redundant and unnecessary. Changes may seem subtle, but when applied to the entire code, the plain language approach improve readability and comprehension. A legally-defensible zoning ordinance is critical, however, even the federal government has moved to require plain language drafting of new regulations.

Numbers in Text

Another irritant to readers is the duplication of numbers in both text and numeric form. This duplication came from an era in which handwritten text might be difficult to read, or later, when poorly xeroxed text became blurred. One bad example from the existing regulations is shown below:

> "less than zero and twenty-five hundredths (0.25) parking spaces per dwelling unit."

could be replaced with:

> "less than ¼ parking space per dwelling unit."

Included in this concept is the use of the % sign in place of the term percent (for example, use "20%" not "twenty (20) percent").

Sample Concepts for Plain Language Drafting

- Identify and write for your audience
- Use lots of useful headings
- Write short sections
- Address separate audiences separately
- General first, exceptions later
- Use active voice ("You must . . .")
- Use short, simple words
- Consider using illustrations
- Minimize cross-references

Source: Federal Plain Language Guidelines, March 2011

Cross-References

One way to directly improve the usability of cross-references is to include not only the numeric section, but also the title of the referenced section. Cross-references link the regulations both internally and to other sections of the City Code. This puts the user on notice of other relevant provisions and reduces the need to repeat significant pieces of text.

Digital Enhancements

The zoning ordinance should take advantage of advances in document technology such as digital cross-references, tables of contents and index, allowing the user to click on a page number or cross-reference and jump to that section. Additionally, document navigation techniques such as thumbnails embedded in Adobe PDF documents can be useful. These digital enhancements are often just a "save as" away from the original document. Digital enhancements can also include internal interpretations embedded as comments, legislative history (including links to prior versions), and external links to items such as state statutes, external manuals and other helpful materials.

Footnotes

The zoning ordinance relies on footnotes as a means of regulation, especially accompanying tables. The revision process should review all footnotes and determine how to incorporate them into the ordinance text itself. During interviews, a frequent comment was, "the table allocates rights, and the footnote takes them away again ."

Capitalization

Many terms that would commonly be capitalized are not in the current zoning ordinance, including terms like city engineer, commissioner of inspectional services, and board of aldermen. These terms should be capitalized.

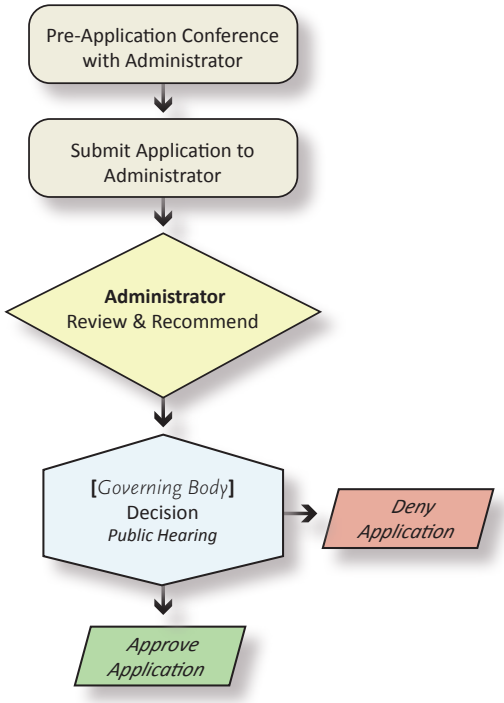
Graphics

Graphics are most helpful for illustrating standards, especially those related to measurements. Graphics provide the opportunity to signal the quality of development the community expects from developers. The zoning ordinance currently has some graphics, such as the measurement of average grade plane and the use of dormers. Additional graphics would make other portions of the zoning ordinance easier to understand. Possible additional graphics include the following:

- Flow charts for procedures
- Sign type and measurement graphics
- District intent graphics

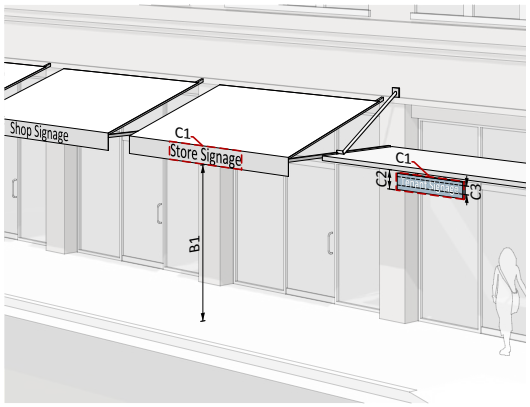
Where possible, best practice concepts should be used in the illustrations and graphics as a way to broadcast sound development practices. Not that the City should eliminate the words, but supplementing them with images and tables makes access to the information more intuitive.

Note that many ordinances explicitly provide that graphics are not regulatory where they conflict with the text. Finally, to the extent possible, the ordinance graphics should have a consistent "look and feel."



Sample Flow Chart: *Flowcharts can provide an overview of a procedure.*

Sec. 8.3.5. Awning, Gallery, Marquee Signs



A. Description		
An on-premise sign attached flat to (or extending vertically upward or downward) from an awning, gallery or marquee. A sign permit is not required.		
B. Location		
B1	Clear height (min)	8'
B2	ROW Encroachment	Allowed with Council approval
C. Size		
C1	Area (max)	4 sf
C2	Height above or below awning, gallery or marquee (max)	12"
C3	Height of letters (max)	18"
D. Miscellaneous		
Signs shall not extend outside the overall length or width of an awning, gallery or marquee, or extend above the height of the building wall that the awning, gallery or marquee is attached.		

Graphics and Tables: *Graphics and tables are frequently used together.*

Tables

Tables are most useful when a comparison of standards is helpful—for example, a series of districts with varying minimum lot areas can be portrayed in a single table, allowing a developer to seek the correct zoning district for the kind of development desired. Tables are also important for standards such as allowed uses. By including the uses in matrix form, consistency across districts is easier to maintain, and the chance of errors of omission that might occur during future amendments is reduced. Many of the current tables put too much information into a limited space and should be broken into a series of tables.

Page Layout

The evolution of page layout software beyond basic word processing has further enhanced development regulations. Now, features such as running headers that allow the reader to quickly flip through pages of the code, and footers on each page with a date of publication or adoption, help reassure users they have the most current copy of the regulations.

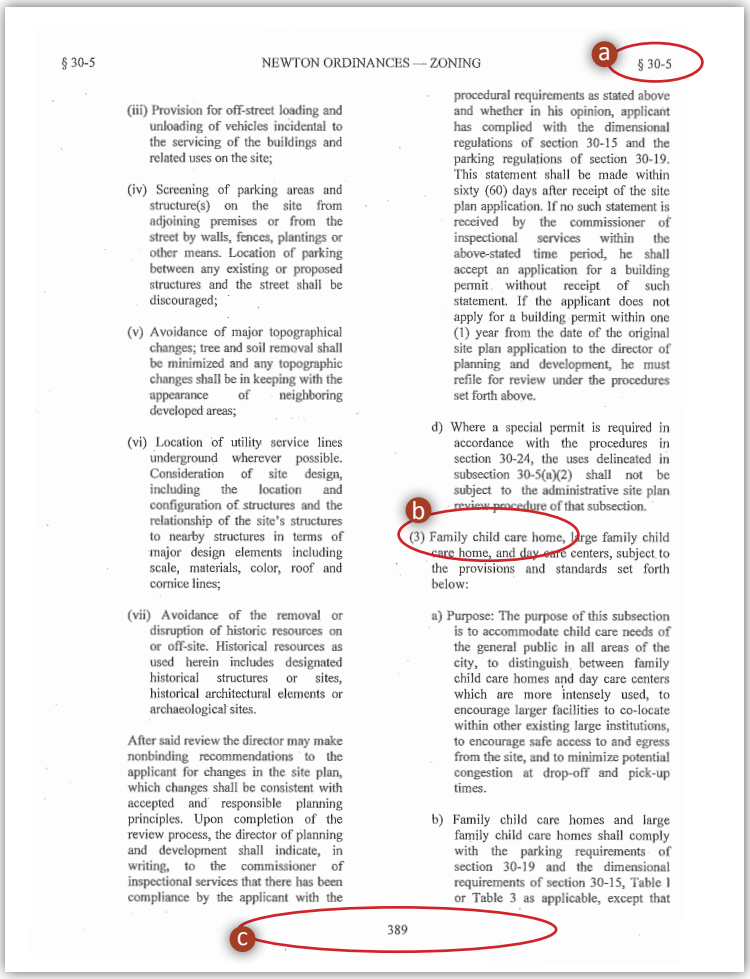
Header/Footer

A continuous running header with both the section number and section title is useful when paging through the ordinance. The adoption or amendment date ensures users are up to date and looking at the same copy as staff or elected and appointed officials. In addition, the current use of the section symbol in the header (§ 30-5) does not match the text (Sec. 30-5), which may confuse some readers.

Page Numbers

When page numbers reference the Article (for example page 6-4) , new pages can be inserted into the document more easily, since the entire document does not need to be reprinted, only the Article where new text is added.

Existing Page Layout: *This typical Newton zoning ordinance page has been highlighted to illustrate page layout concerns.*



§ 30-5 NEWTON ORDINANCES — ZONING a § 30-5

(iii) Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site;

(iv) Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between any existing or proposed structures and the street shall be discouraged;

(v) Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with the appearance of neighboring developed areas;

(vi) Location of utility service lines underground wherever possible. Consideration of site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines;

(vii) Avoidance of the removal or disruption of historic resources on or off-site. Historical resources as used herein includes designated historical structures or sites, historical architectural elements or archaeological sites.

After said review the director may make nonbinding recommendations to the applicant for changes in the site plan, which changes shall be consistent with accepted and responsible planning principles. Upon completion of the review process, the director of planning and development shall indicate, in writing, to the commissioner of inspectional services that there has been compliance by the applicant with the procedural requirements as stated above and whether in his opinion, applicant has complied with the dimensional regulations of section 30-15 and the parking regulations of section 30-19. This statement shall be made within sixty (60) days after receipt of the site plan application. If no such statement is received by the commissioner of inspectional services within the above-stated time period, he shall accept an application for a building permit without receipt of such statement. If the applicant does not apply for a building permit within one (1) year from the date of the original site plan application to the director of planning and development, he must refile for review under the procedures set forth above.

d) Where a special permit is required in accordance with the procedures in section 30-24, the uses delineated in subsection 30-5(a)(2) shall not be subject to the administrative site plan review procedure of that subsection.

b (3) Family child care home, large family child care home, and day care centers, subject to the provisions and standards set forth below:

a) Purpose: The purpose of this subsection is to accommodate child care needs of the general public in all areas of the city, to distinguish between family child care homes and day care centers which are more intensely used, to encourage larger facilities to co-locate within other existing large institutions, to encourage safe access to and egress from the site, and to minimize potential congestion at drop-off and pick-up times.

b) Family child care homes and large family child care homes shall comply with the parking requirements of section 30-19 and the dimensional requirements of section 30-15, Table 1 or Table 3 as applicable, except that

c 389

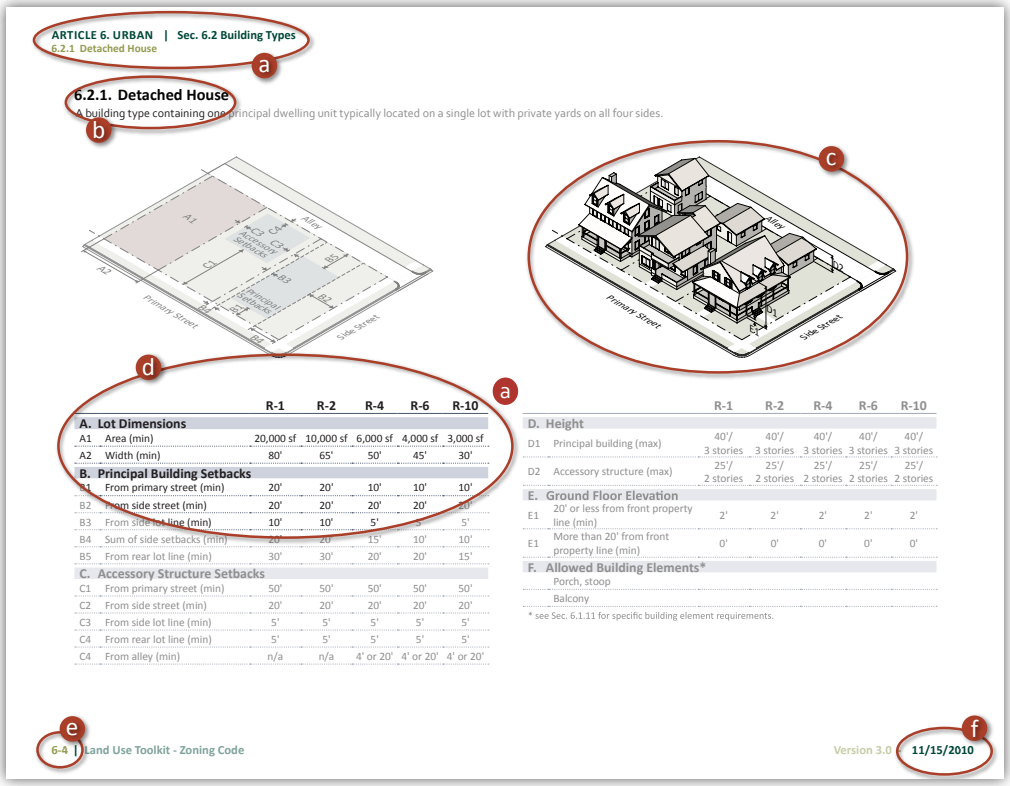
a *Header: Section title missing*

b *Heading titles not prominent, don't use title case (capital letters)*

c *Footer: missing adoption or amendment date*

Note: the internet version of the zoning ordinance does not match the page layout of the official printed version.

Sample Page Layout: *This sample page layout shows alternate ways to enhance the user-friendliness of the regulations.*



ARTICLE 6. URBAN | Sec. 6.2 Building Types
6.2.1 Detached House

6.2.1. Detached House

A building type containing one principal dwelling unit typically located on a single lot with private yards on all four sides.

		R-1	R-2	R-4	R-6	R-10
A. Lot Dimensions						
A1	Area (min)	20,000 sf	10,000 sf	6,000 sf	4,000 sf	3,000 sf
A2	Width (min)	80'	65'	50'	45'	30'
B. Principal Building Setbacks						
B1	From primary street (min)	20'	20'	10'	10'	10'
B2	From side street (min)	20'	20'	20'	20'	20'
B3	From side lot line (min)	10'	10'	5'	5'	5'
B4	Sum of side setbacks (min)	20	20	15'	10'	10'
B5	From rear lot line (min)	30'	30'	20'	20'	15'
C. Accessory Structure Setbacks						
C1	From primary street (min)	50'	50'	50'	50'	50'
C2	From side street (min)	20'	20'	20'	20'	20'
C3	From side lot line (min)	5'	5'	5'	5'	5'
C4	From rear lot line (min)	5'	5'	5'	5'	5'
C4	From alley (min)	n/a	n/a	4' or 20'	4' or 20'	4' or 20'

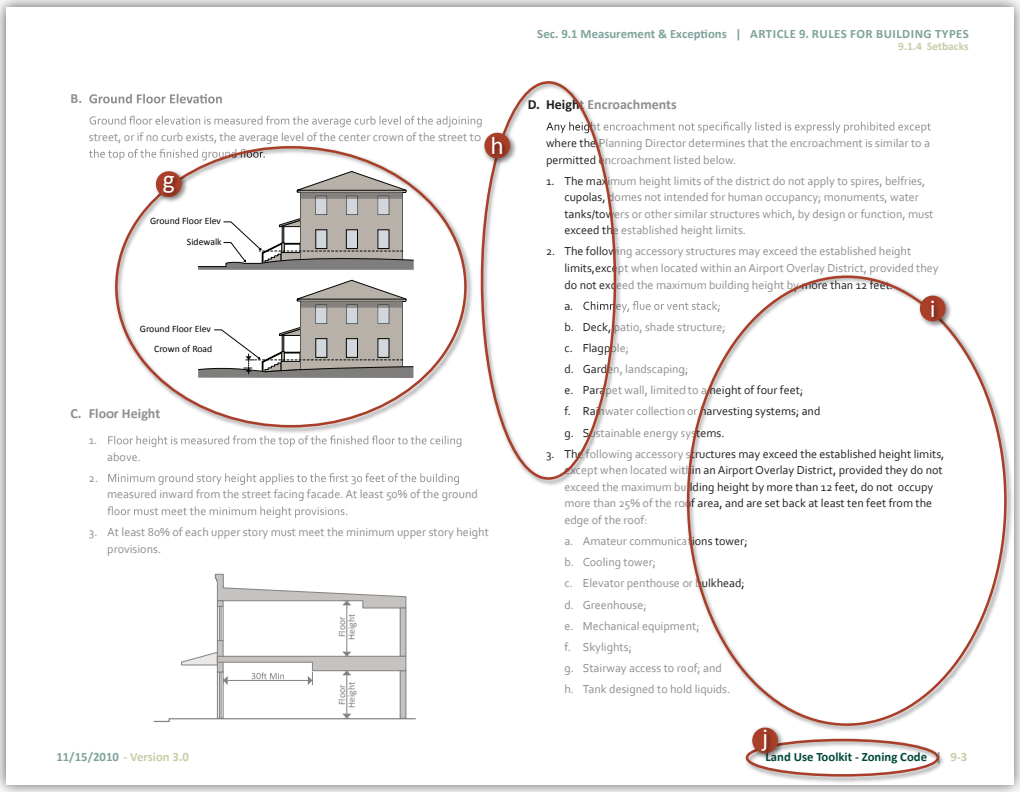
		R-1	R-2	R-4	R-6	R-10
D. Height						
D1	Principal building (max)	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories	40'/ 3 stories
D2	Accessory structure (max)	25'/ 2 stories	25'/ 2 stories	25'/ 2 stories	25'/ 2 stories	25'/ 2 stories
E. Ground Floor Elevation						
E1	20' or less from front property line (min)	2'	2'	2'	2'	2'
E1	More than 20' from front property line (min)	0'	0'	0'	0'	0'
F. Allowed Building Elements*						
	Porch, stoop					
	Balcony					

* see Sec. 6.1.11 for specific building element requirements.

6-4 | Land Use Toolkit - Zoning Code

Version 3.0 | 11/15/2010

- a *Running header*
- b *Prominent titles*
- c *Graphics and illustrations*
- d *Clean, Easy to Read Tables Convey Information*
- e *Page Numbers reference Article*
- f *Adoption Date*



Sec. 9.1 Measurement & Exceptions | ARTICLE 9. RULES FOR BUILDING TYPES
9.1.4 Setbacks

B. Ground Floor Elevation

Ground floor elevation is measured from the average curb level of the adjoining street, or if no curb exists, the average level of the center crown of the street to the top of the finished ground floor.

C. Floor Height

1. Floor height is measured from the top of the finished floor to the ceiling above.
2. Minimum ground story height applies to the first 30 feet of the building measured inward from the street facing facade. At least 50% of the ground floor must meet the minimum height provisions.
3. At least 80% of each upper story must meet the minimum upper story height provisions.

D. Height Encroachments

Any height encroachment not specifically listed is expressly prohibited except where the Planning Director determines that the encroachment is similar to a permitted encroachment listed below.

1. The maximum height limits of the district do not apply to spires, belfries, cupolas, domes not intended for human occupancy; monuments, water tanks/towers or other similar structures which, by design or function, must exceed the established height limits.
2. The following accessory structures may exceed the established height limits,except when located within an Airport Overlay District, provided they do not exceed the maximum building height by more than 12 feet:
   a. Chimney, flue or vent stack;
   b. Deck, patio, shade structure;
   c. Flagpole;
   d. Garden, landscaping;
   e. Parapet wall, limited to a height of four feet;
   f. Rainwater collection or harvesting systems; and
   g. Sustainable energy systems.
3. The following accessory structures may exceed the established height limits, except when located within an Airport Overlay District, provided they do not exceed the maximum building height by more than 12 feet, do not occupy more than 25% of the roof area, and are set back at least ten feet from the edge of the roof:
   a. Amateur communications tower;
   b. Cooling tower;
   c. Elevator penthouse or bulkhead;
   d. Greenhouse;
   e. Mechanical equipment;
   f. Skylights;
   g. Stairway access to roof; and
   h. Tank designed to hold liquids.

11/15/2010 - Version 3.0

Land Use Toolkit - Zoning Code | 9-3

- g *Graphics reinforce how to measure standards*
- h *Consistent numbering, indented paragraphs*
- i *Generous use of white space*
- j *Running footer*

Definitions

The most significant issue with the definitions is their location in the document -- before even the purpose and intent of the overall ordinance. Definitions work best as a glossary of terms at the end of the document. Eventually, digital versions of the zoning ordinance can aspire to floating definitions produced by simply hovering with a mouse over a term, or by holding one's finger on the word, as most e-readers allow.

Many definitions in the zoning ordinance contain regulatory language. Definitions are at their best when they are descriptive in nature, but avoid standards or requirements. The revision process should remove any regulatory language or standards that are embedded in definitions.

Another problem with the definitions in the zoning ordinance is that there is often a disconnect between the plain meaning of a term and the City's use of the term in the regulations. For example, the term "lot coverage" is defined in the zoning ordinance to include any coverage of the lot by buildings,which would be better described as "building coverage." Another example is the term "parking lot" -- which the average reader will assume is any parking associated with a development, but in fact is parking that is a stand-alone use, and not accessory. The revision process should bring such definitions in line with their desired meaning.

Some of the definitions are circular, requiring another definition to understand. For example, the phrase "association of persons" is defined by saying it is NOT a family; however, family remains undefined. These definitions should be rewritten to stand alone.

It is acceptable to use "see also _____" to refer to another definition when they are related.

Many definitions are alphabetized poorly, for example "Space, useable open" is located under the letter S, and perhaps should have been listed as "Open space, useable" and located under the letter O.

Many definitions relate specifically to one section of the ordinance (for example, a definition of a sign type). Where possible, these narrow definitions should be placed near the regulatory text. For example, the definition of "Development Parcel" is relevant to only two obscure sections of the zoning ordinance. Keeping this definition in the general definitions section could lead to confusion since the commonly understood meaning of this phrase is any parcel that could be developed. It would be better to redraft the two sections to which it applies, incorporating the meaning of this term in those sections.

Finally, some additional terms probably deserve a definition, including many of the listed uses, along with key terms such as "lot."

3. DISTRICTS & USES

Zoning districts are the primary organizing mechanism and implementing device of most zoning ordinances. The districts and their allowed uses shape the community in subtle ways, allowing the City to manage the redevelopment, infill and compatibility of both changes in use and new construction.

The majority of changes to the districts and uses in Newton's ordinance clearly require policy changes to the document. Phase 2, which will review the Comprehensive Plan, will focus on these changes. However, one important step in the preparation of this interim version of the reformed zoning ordinance would be the creation of a clear, logically organized use table that consolidates all of the districts. Even this simple step will require detailed review and direction from the staff and Zoning & Planning Committee of the Board of Aldermen to ensure the intent of the existing regulations is preserved.

Organization of Districts & Uses

The most significant change to districts and uses is the separation of the district intent and dimensional standards from the allowed uses and their standards. By moving all of the use provisions to a single article, the ordinance will become easier to use, with less duplication (and less opportunity for error in future revisions). The current organization of the districts relies on splitting a single Article (ironically entitled Use Regulations) into four Divisions.

Recommended Revisions

- ☑ Establish all districts in the ordinance
- ☑ Allow for a digital zoning map
- ☑ Craft purpose and intent statements for each zoning district
- ☑ Prepare illustrations of intent for each district based on existing locations or preferred outcomes
- ☑ Define dimensional terms, illustrate as needed
- ☑ Consolidate dimensions where possible
- ☑ Create new sections for clustering, rear lots, FAR and other scattered dimensional provisions
- ☑ Display dimensions visually in conjunction with tables
- ☑ Create a single use Article with principal, accessory and temporary use provisions
- ☑ Prepare a consolidated use table
- ☑ Group similar uses together, provide definitions of these groups
- ☑ Define individual uses listed on the use table
- ☑ Link the use table to any specific use standards

3.1.3. R-1: Single-Family Suburban

R-1 is intended for single-family living in a detached house with a minimum lot size of 18,000 square feet. Lots have access to both public water supply and public sanitary sewer. R-1 is generally suitable for lands designated Suburban Residential on the Future Development Map of the Comprehensive Plan.

Intent Statement: *This sample intent statement describes the district and links it to a comprehensive plan.*

Establishment of Districts

Current Sec. 30-4., which establishes the districts of the City, does not include all of the current districts in the ordinance. This must be remedied in the revised ordinance. Some districts may not appear on the zoning map, but these "floating districts" may be established in the ordinance for future application (and the text should expressly state they are floating districts). In addition, the City should consider including the Great Ponds and their 300-foot area of influence on the zoning map.

Digital Zoning Map

The current ordinance references the existing zoning map in Sec. 30-4.(b), linking it back to the 1951 plan of zoning. This 1951 link is no longer necessary, and one Official Zoning Map should be created (whether in paper copy or digital). Many communities are providing for digital maps, as in this sample text:

> "The location and boundaries of zoning districts are shown and maintained as part of the City's geographic information system (GIS) under the direction of the Planning Director. The zoning GIS layer constitutes the City's Official Zoning Map and is part of this ordinance. All notations, references and other information shown shall have the same force and effect as if fully set forth or described in this ordinance."

District Intent

The current zoning ordinance provides no district purpose or intent statements for the original districts (although newer districts added have purpose statements). This is an important element of any modern ordinance -- it helps the Board of Aldermen determine the appropriate district to apply during a rezoning, and helps in the consideration of appropriate uses and dimensional standards applied within the district.

Currently, most of the districts begin with a description of allowed uses. This is further broken down into those uses that are allowed with site plan approval, and then special permit uses. It is difficult to get a grasp on the overall district intent today. A typical district intent statement is shown below, describing district character, as well as linking to a comprehensive plan land use map. District intent is often illustrated as well, providing additional cues as to its applicability.

The creation of 3-D illustrations of each zoning district can be a simple exercise where existing locations in the community can be identified that typify the desired pattern of development. The

§ 30-15 NEWTON ORDINANCES — ZONING § 30-15

SECTION 30-15

TABLE 1*— *DENSITY & DIMENSIONAL CONTROLS IN RESIDENCE DISTRICTS AND FOR RESIDENTIAL USE

ZONING DISTRICT	MINIMUM REQUIRED LOT AREA	LOT AREA PER UNIT[1]	FRONTAGE	SET BACKS FRONT	SET BACKS SIDE	SET BACKS REAR	TOTAL FLOOR AREA RATIO[9]	BUILDING HEIGHT[2, 4, 5, 6, 7]	MAXIMUM NUMBER OF STORIES[3]	MAXIMUM BUILDING LOT COVERAGE	MINIMUM AMOUNT OF OPEN SPACE
SINGLE RESIDENCE 1											
Single Dwelling Units	25,000	25,000	140	40	20	25		36	2.5	15%	70%
Lots created before 12/7/53	15,000	25,000	100	25	12.5	25		36	2.5	20%	65%
Special Permits:											
Single Att. Dwelling Units (30-8(b)(13))	3 acres	25,000	140	40	25	25	-	36	2.5	15%	70%
Single Family Detached (30-15(k))*	5 acres	15,000	50	15	7.5	15	-	36	2.5	20%	65%
SINGLE RESIDENCE 2											
Single Dwelling Units	15,000	15,000	100	30	15	15		36	2.5	20%	65%
Lots created before 12/7/53	10,000	15,000	80	25	7.5	15		36	2.5	30%	50%
Special Permits:											
Single Att. Dwelling Units (30-8(b)(13))	2 acres	15,000	100	30	25	25	-	36	2.5	20%	65%
Single Family Detached (30-15(k))*	5 acres	10,000	50	15	7.5	15	-	36	2.5	30%	50%
SINGLE RESIDENCE 3											
Single Dwelling Units	10,000	10,000	80	30	10	15		36	2.5	30%	50%
Lots created before 12/7/53	7,000	10,000	70	25	7.5	15		36	2.5	30%	50%
Special Permits:											
Single Att. Dwelling Units (30-8(b)(13))	1 acre	10,000	80	30	25	25	-	36	2.5	30%	50%
Single Family Detached (30-15(k))*	5 acres	7,000	50	15	7.5	15	-	36	2.5	30%	50%
MULTI-RESIDENCE 1											
Single & Two Family Dwellings	10,000	5,000	80	30	10	15		36	2.5	30%	50%
Lots created before 12/7/53	7,000	3,500	70	25	7.5	15		36	2.5	30%	50%
Special Permits:											
Attached Dwellings (30-9(b)(5))	15,000	4,000	80	25	25	25	-	36	2.5	25%	50%
Single & Two Family Detached (30-15(k))*	5 acres	7,000	50	15	7.5	15	-	36	2.5	30%	50%
MULTI-RESIDENCE 2											
Single & Two Family Dwellings	10,000	5,000	80	25	10	15		36	2.5	30%	50%
Lots created before 12/7/53	7,000	3,500	70	25	7.5	15		36	2.5	30%	50%
Special Permits:											
Attached Dwellings	15,000	4,000	80	25	25	25	-	36	2.5	25%	50%
Multi-Family Dwelling	10,000	3,000	80	25	7.5	15	-	36	3	30%	50%
Garden Apartments (30-9(d))	24,000	2,000	80	20	14	15	-	36	3	35%	35%
Single & Two Family Detached (30-15(k))*	5 acres	7,000	80	15	7.5	15	-	36	2.5	30%	50%

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Existing dimensional table.

existing architectural style, lot patterns, topography, vegetative cover and other key elements of character can be borrowed from an existing setting and rendered using 3-D tools such as Sketch-Up.

One good example of confusion as to district intent is included in the Mixed-Use 3/Transit-Oriented District. This district is not mapped; however, the location is clear from its reference to the Riverside MBTA station. Unfortunately, the district intent seems to overlap with the Business 4 District, which is mapped in only one place next to the Riverside MBTA station, and with the unmapped Planned Multi-Use Business District. It is unclear if these three districts are intended to cover some or all of the same land. If two of them are intended to be floating districts, then the zoning ordinance should say that.

Dimensional Standards

The dimensional standards applicable in each zoning district are included in the fourth Division of this Article, long after the remainder of the text for the district. In some cases, dimensional information is included for specific uses (such as lot size for conversion of a structure to occupancy beyond one single family), increasing the confusion.

Existing Tables

Newton's current ordinance does provide a unified approach to displaying dimensional controls in a single table, as shown below. However, this table is primarily for single dwelling units. Additional tables describe religious and non-profit educational uses, rear lot development, and in a totally separate section, Floor Area Ratios applied to single-family and two-family structures.

Terms used as part of the dimensional standards should be clearly defined. Newton's most egregious example is "open space." While there is a definition of "beneficial open space" (used in the Mixed

Business Development District), no definition of open space is included. Further clouding the issue is the fact that "Building Lot Coverage" plus "Open Space" does not add up to 100% -- begging the question of what is allowed in between.

Avoid the use of acronyms that are not generally understood, For example, Table 30-8 which contains the term RAAP ("Review of Accessory Apartment Petitions") cannot be understood without reference to Sec. 30-22, describing the review procedure.

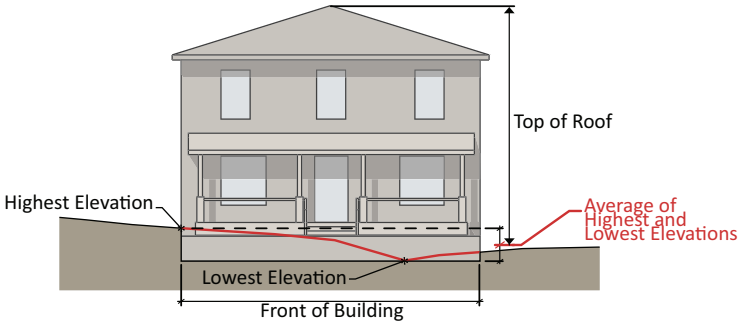
Where complex measurements are required, a separate section -- preferably immediately before the dimensional tables -- should include graphics illustrating measurement terms.

Break Up Sec. 30-15.

Many important provisions are buried in Sec. 30-15. These include:

- Clustering in Sec. 30-15.(k)
- Rear lots in Sec. 30-15.(r)
- FAR elaboration in 30-15.(u)
- Planned Multi-Use Business District in Sec. 30-15(s)
- Mixed Use 3/Transit-Oriented Development in Sec. 30-15.(v)
- Mixed-Use District 4 in 30-15.(w)

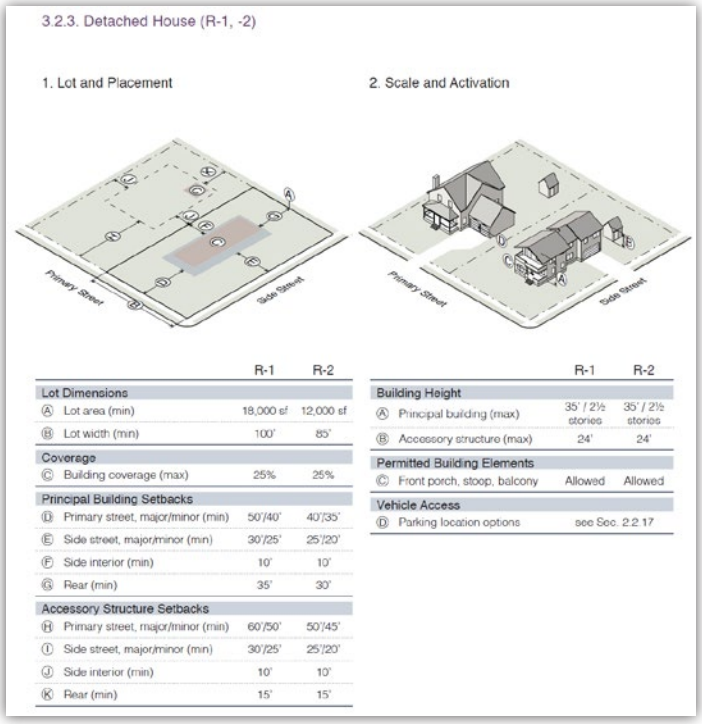
The organization of material in this section must be improved. It would be useful for the reader to see many of these options in the Table of Contents, so that they are aware the options even exist. Organization of the material into a single long section has led observers to point out that one needs to read the entire ordinance anew for every single project, otherwise you might miss an exception or option.



Measurement Graphic: *This sample measurement graphic explains a complex subject visually.*

Modern Layout

Following the district intent, the dimensional standards should be the second element of each district. Illustrating the dimensional standards often eliminates confusion as to how to measure a given standard. The City's current dimensional tables are incredibly complex, and every attempt should be made to simplify the tables without reducing the elements regulated.



3.2.3. Detached House (R-1, -2)

1. Lot and Placement

2. Scale and Activation

	R-1	R-2
Lot Dimensions		
Ⓐ Lot area (min)	18,000 sf	12,000 sf
Ⓑ Lot width (min)	100'	85'
Coverage		
Ⓒ Building coverage (max)	25%	25%
Principal Building Setbacks		
Ⓓ Primary street, major/minor (min)	50'/40'	40'/35'
Ⓔ Side street, major/minor (min)	30'/25'	25'/20'
Ⓕ Side interior (min)	10'	10'
Ⓖ Rear (min)	35'	30'
Accessory Structure Setbacks		
Ⓗ Primary street, major/minor (min)	60'/50'	50'/45'
Ⓘ Side street, major/minor (min)	30'/25'	25'/20'
Ⓙ Side interior (min)	10'	10'
Ⓚ Rear (min)	15'	15'

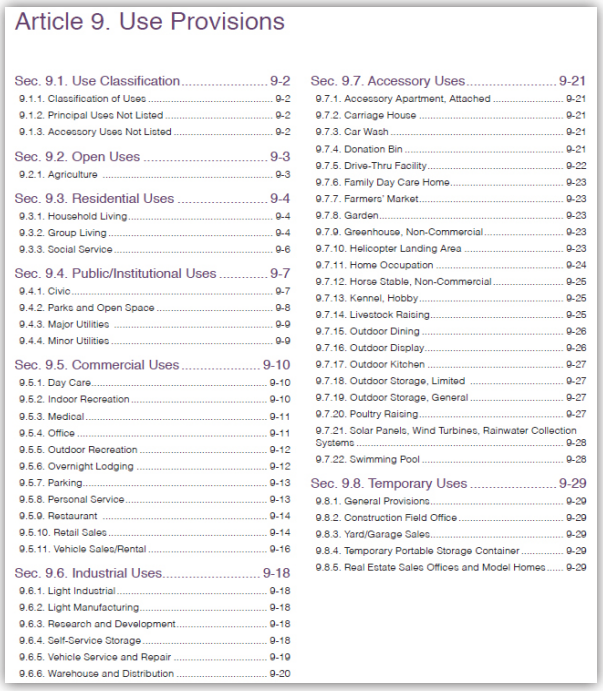
	R-1	R-2
Building Height		
Ⓐ Principal building (max)	35' / 2½ stories	35' / 2½ stories
Ⓑ Accessory structure (max)	24'	24'
Permitted Building Elements		
Ⓒ Front porch, stoop, balcony	Allowed	Allowed
Vehicle Access		
Ⓓ Parking location options	see Sec. 2.2.17	

Use Regulation

Organization of Use Regulations

The use regulations scattered throughout the current zoning ordinance should be contained in a single Article. The Article should include provisions for principal, accessory and temporary uses. A sample table of contents for a similar code is shown below.

A single approach to use regulation is also important. Today, the older districts contain use lists with standards embedded in them, while the newer Mixed Use 3/Transit-Oriented District contains its own use table. (As a side note, this use table includes the abbreviation "BR" for "by right" when the simpler "P" for permitted is more commonly used elsewhere around the country.



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Use Regulations: *This sample table of contents consolidates principal, accessory and temporary use provisions.*

Use Table

The current zoning ordinance does not include a consolidated use table. In fact, use provisions are scattered throughout the ordinance -- in the definitions, in text describing uses allowed in all districts, and in long lists of permitted uses in the districts themselves. The existing districts also commingle provisions for principal uses with those for accessory and temporary uses. To further confuse matters, the districts also allude to nonconforming uses, which are handled in another separate section of the ordinance. The use table also helps ensure consistent terminology for the same use as new districts are added to the zoning ordinance. It also allows an opportunity for elimination of obsolete uses as the table is crafted from existing use lists.

Accessory apartments are an especially bad example in the current zoning ordinance. Important information is located in the definitions, and again in each district that allows this use. The procedure for approving this use is either in the use standard in the district or at the end of the ordinance with other administrative provisions. In the case of Sec 30-9, allowed use provisions, standards for the use, and the approval procedure are all commingled. Finally, "existing accessory apartments" which are likely to be considered nonconforming are also included here, in spite of the location of nonconforming provisions at the end of the ordinance. Keeping track of all the places this use arises in the ordinance means that future amendments dealing with this issue will be especially problematic. It is much better to include these provisions only once in a consolidated Article, and point there from other affected sections.

Use Table: *This sample use table illustrates the application of use categories, specific uses, and hyperlinks to definitions and standards later in the same Article.*

Use Category / Specific Use	RESIDENTIAL												CIVIC & OPEN SPACE			Definition/ Standards
	E-1	E-2	R-1	R-2	RS-9	RS-6	RS-4	R-CC	R-TF	R-TH	RM-2	RM-3	CIV	REC	COM	
Open Uses																
All agriculture, as listed below:																9.2.1.A
Community garden	L	L	L	L	L	L	L	L	L	L	L	L	L	L	--	9.2.1.B
Urban farm	L	C	--	--	--	--	--	--	--	--	--	--	--	--	--	9.2.1.C
Residential Uses																
All household living, as listed below:																9.3.1.A
Single-family	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	9.3.1.B
Two-family	--	--	--	--	--	--	--	P	P	P	P	P	--	--	--	9.3.1.C
Multi-family	--	--	--	--	--	--	--	--	--	P	P	P	--	--	--	9.3.1.D
Manufactured home	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	9.3.1.E
All group living, as listed below:																9.3.2.A
Continuing care retirement community	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.2.B
Group home	P	P	P	P	P	P	P	P	P	P	P	P	--	--	--	9.3.2.C
Hospice	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.2.D
Institutional residential (up to 18 residents)	--	--	--	--	--	--	--	--	--	--	--	C	--	--	--	9.3.2.E
Institutional residential (more than 18 residents)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.2.F
Monastery, convent	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.2.G
Rooming house	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.2.H
All social service	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	9.3.3.A
Public/Institutional Uses																
All civic, as listed below:																9.4.1.A
College, university	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.B
Club or lodge, nonprofit	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.C
Museum, library	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.D
Nonprofit service organization	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.E
Place of worship	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.F
Public use	--	--	--	--	--	--	--	--	--	--	--	--	P	P	--	9.4.1.G
School, private (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	9.4.1.H
School, public (K-12)	--	--	--	--	--	--	--	--	--	--	--	--	P	--	--	9.4.1.I
School, special	--	--	--	--	--	--	--	--	--	--	--	--	C	--	--	9.4.1.J

Key: P = Permitted Use L = Limited Use C = Conditional Use -- = Use Not Permitted

Use category ▶

Specific use ▶

◀*Link to use category definition, specific use standards*

Use Category: *This sample defines a group of uses.*

9.5.1. Day Care

A. Defined. A facility providing care, protection and supervision of children or adults on a regular basis away from their primary residence. Care is provided to a given individual for less than 24 hours a day. Day care includes the following.

1. Adult care center.

2. Day care center.

Specific Use: *This sample defines a single use, and includes standards applied to that use.*

C. Day Care Center

1. Defined. Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia and licensed by the City of Roswell as a group day care home or day care center, where services are received for pay for group supervision and care, for fewer than 24 hours per day, for 7 or more children under 18 years of age.

2. Use Standards. Where a day care is allowed as a conditional use, it may be permitted by the Mayor and Council subject to Sec. XX, and the standards below. Where a day care is allowed as a limited use, it is subject to the following:

   a. A day care center must have at least 100 square feet of outdoor play area and at least 35 square feet of indoor space provided for each child served; and

Use Category Definition

A use category consolidates a series of uses that have similar impacts for the purpose of determining the districts in which the group of uses will be allowed. At its simplest, the use table would include only a limited set of categories. However, since many uses require their own definition or standards, specific uses within a given use category are often defined, as shown below. The beauty of a use category system is that it allows for accurate interpretation of new uses. One recent example, doggie day care, is seldom found as a listed use, but is reasonably similar to other uses such as veterinary care.

Specific Use Definition

An individual use within a group of uses may also be defined. Individual uses should be listed on the use table only when they have specific use standards associated with them. Many terms for uses in the current zoning ordinance are not defined, for example, riding school and stock farm.

Link to Use Standards

The current zoning ordinance contains many standards specific to a use. Once a use table has been created, the use standards should be linked from each row of the table, as shown in the example on the previous page. This link should be digital, so that one click transports the user to the necessary additional information about the use.

Sections 30-18, Heliports and 30-18A, Wireless Communication Facilities are both good examples of separate use standards.

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4. DEVELOPMENT STANDARDS

Where zoning districts provide the rules for site dimensions, use and form, the development standards provide the remaining rules needed for designing a project. Development standards typically address issues such as parking, site lighting, signs, stormwater and landscaping .

Location of Standards

Newton's development standards are difficult to find. For example, the signs are located in an Article for Parking and Loading, while site lighting standards are located outside of Chapter 30 elsewhere in the City Code. One especially bad example is Sec. 30-5.(c)(1), which contains a very important stormwater runoff performance standard that is lost in this section on uses allowed in all districts.

Links to External Standards

There are a variety of portions of the City Code that impact land development in Newton. A good example might be the Tree Preservation provisions located in Sec. 21-81 through -89, or Sec. 5-19 regarding swimming pool enclosures. The revised zoning ordinance should provide at least a cross-reference to these key components located outside of the zoning ordinance.

Recommended Revisions

- ☑ Rename Article III (Parking and Loading), consolidate all general development standards here
- ☑ Include sections for Parking, Signs, Lighting, Landscaping, Stormwater
- ☑ Link to external standards in the City Code
- ☑ Provide applicability statements for all development standards
- ☑ Create a table of parking ratios; match to use table
- ☑ Illustrate parking lot design standards
- ☑ Clarify allowed location of parking
- ☑ Illustrate sign types and measurement
- ☑ Create a table of allowed sign types by district

Applicability

Since development standards are general in nature, it is important to provide for their applicability. Do they apply only to new construction? To additions and expansion? At the time of a change in use? The parking section provides for applicability, but then the general regulations modify the applicability set forth at the beginning of the section. Clarification of applicability for all of the general development standards is needed.

Parking

Parking Ratios

The amount of parking required for each use is currently difficult to discern. The requirements are located in a series of paragraphs in which the use to which the standard applies is buried. This is the perfect example of where a table would be very helpful for the user. It is also preferable to have the uses in that table match the use table, if possible. This makes administration of the ordinance simpler. In many cases, the ratios for bicycle parking can be combined with those for vehicles, as shown below.

It is important to note that even a simple attempt at translation of the existing standards to match a revised use table may be seen as a policy decision by some. The City will need to decide whether to simply reproduce the uses currently listed in the Parking section, or to create the more effective table matching the new use table.

Location of Parking

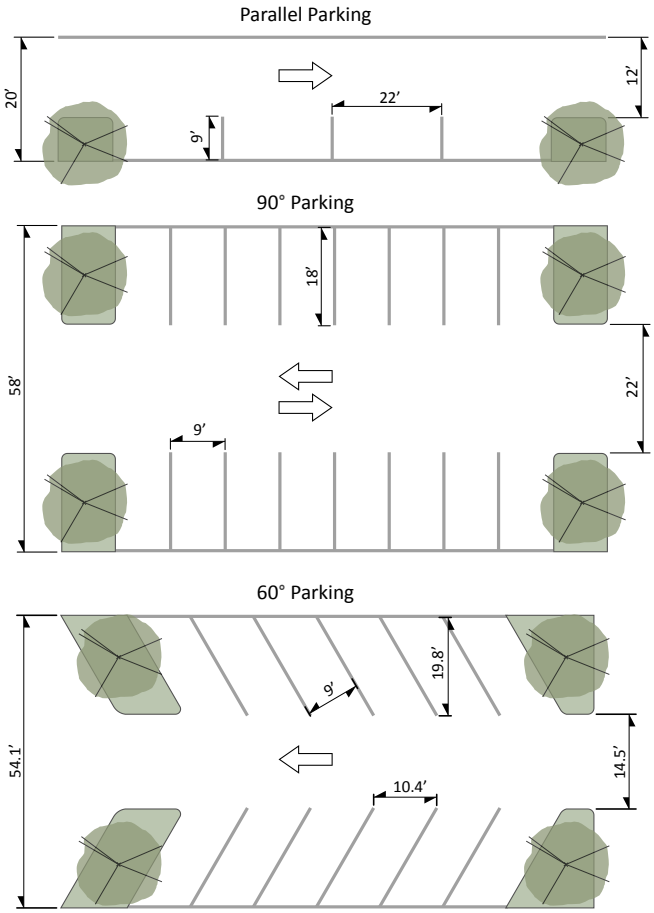
The current regulations need some help when it comes to the appropriate location for parking. For example, Sec. 30-19(d)(1) seems to allow two parking spaces in the side yard setback, while 30-19.(g)(1) seems to allow only one. Clarification of the appropriate location (which can be done as part of illustrating the Article) will ease administration.

Use Category Specific Use	Vehicle Parking (min)	Bicycle parking (min)	
		Short-term	Long-term
Open Uses			
All agriculture uses	None	None	None
Residential Uses			
All household living, as listed below:			
Single-family (all parking on lot)	2 per unit	None	None
Two-family (all parking on lot)	2 per unit	None	None
Multi-family: 0 - 1 bedroom Multi-family: 2 bedrooms Multi-family: 3+ bedrooms	1 per unit + 0.2 per unit for guests 2 per unit + 0.2 per unit for guests 3 per unit + 0.2 per unit for guests	1 per 20 units, 3 min	1 per 5 units (projects with 10 or more units)
Manufactured home	2 per unit	None	None
All group living, except as listed below:	1 per 4 beds	None	None
Continuing care retirement community	Calculated based on required spaces for each individual use	Calculated based on required spaces for each individual use	Calculated based on required spaces for each individual use
Group home	1.5 per bedroom	None	None
Rooming house	1.5 per bedroom	None	None
All social service	1 per 4 beds	None	None

Parking Table: *This sample parking table matches the use table, and includes bicycle parking.*

Parking Facility Design

It is often simple to illustrate parking lot design standards, and the majority of users will appreciate this visual presentation of the standards. An example illustration is shown below.



Parking Layout: *This sample parking layout illustrates stall, aisle and landscaping requirements.*

Signs

Sign Types

The sign types in the ordinance are often difficult to understand in words only, and the addition of illustrations of various types of signs would make this section more user-friendly.

Sign Types Allowed

This is another place where a table can provide a great overview of which sign types are allowed in each zoning district. Creation of such a table ensures consistent thinking about sign types across districts.

Sign Measurement

As with other measurements throughout the zoning ordinance, signs standards are easier to apply if they are illustrated.

Sign Types: *This sample of illustrations shows various sign types.*

Sign Types Allowed by District

Signs are allowed by district as set forth below. Specific requirements fo

	DN-4	DC-4	DX-3	GC-3	RA-3
Wall Sign	●	●	●	●	▲
Awning Sign	●	●	●	●	
Canopy Sign	●	●	●	●	
Projecting Sign	●	●	●	●	
Shingle Sign	●	●	●	●	
Window Sign	●	●	●	●	
Monument Sign	●			●	▲
Bracket Sign	●	●	●	●	▲
Sidewalk Sign	●	●	●		

KEY: ● = Sign type allowed ▲ = Allowed sign type for nonresidential uses only

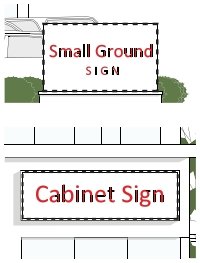
Sign Table: *This sample table shows the allowed districts for various sign types.*

F. Computation of Sign Type Area

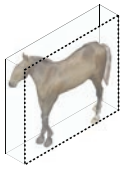
The area of a sign type is determined as follows.

1. For signs consisting of freestanding letters or logos, sign area is calculated as the total area of the rectangle, circle or square that fully encloses each word or logo.

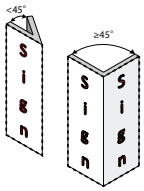
2. For cabinet signs and signs on a background, the entire area of the background is calculated as sign area, including any material or color forming the sign face and the background used to differentiate the sign from the structure against which it is mounted. Sign area does not include any supports or bracing.



3. The sign area of a three-dimensional sign is calculated as total area of the smallest rectangle, circle or square that fully encloses the largest profile of the three-dimensional sign.

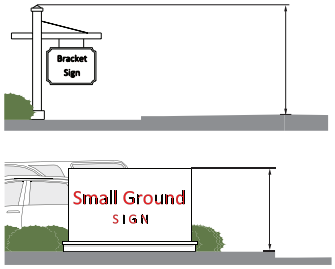


4. The area for a sign with more than one face is computed by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 45 degrees.



G. Measurement of Sign Height

The total height of a ground or bracket sign is measured from the highest point of the sign or supporting structure to the top of the adjacent curb, or to the crown of the road where no curb exists.



Sign Measurements: *This sample of set of illustrations shows how to measure sign area and sign height for different sign types.*

Landscaping

There are no landscaping standards in the zoning ordinance beyond those for parking areas, and those applied to a few specific uses in various use standards. However, each review procedure clearly specifies the provision of a landscaping plan, screening and other key elements of landscape. Including new landscaping standards is beyond this phase 1 project's scope, but providing some landscape guidance to applicants regarding screening buffers and general site landscaping is important, and should be considered in phase 2 of the zoning ordinance reform.

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5. PROCESS & ADMINISTRATION

Regulations are only as efficient as their procedural and administrative provisions allow. The rules can be user-friendly, prescriptive and have the right standards for the community, but if the development approval process is mired in lengthy and contentious political or bureaucratic process, it will burden development with unnecessary costs and possibly drive activity to surrounding communities.

Use of Process versus Standards

Newton relies heavily on process, not specific standards, to control development. The standards and regulations in the zoning ordinance are inadequate to generate reasonable outcomes on their own, so the City uses site plan and special permit processes to modify each development as it comes to the community. The City review site plans and special permits at the Board of Aldermen level, vesting virtually all discretionary decisions in a single body. In a streamlined process, some of the powers would be delegated to staff review according to prescriptive standards, while some would be reviewed applying discretion at the Planning Board or Zoning Board of Appeals. Newton's process is rare across the country, and even in Massachusetts itself, especially when one considers there are 24 members of the Board of Aldermen -- a majority of which must approve any site plan or special permit.

Recommended Revisions

- ☑ Remove submittal requirements for applications
- ☑ Add a completeness step before application review
- ☑ Organize and consolidate nonconforming provisions
- ☑ Use typical categories of nonconforming uses, structures and lots of record

When communities rely too heavily on process to generate good development, it is typically because their rules are broken. This phase 1 project does not allow for policy change to such a degree that administration and processes can be immediately reformed, however, we have provided some insight into how the City should think about these issues in phase 2.

Major Versus Minor

Both the site plan review process and the special permit process lend themselves to splitting major projects from minor projects. The increase of a retaining wall beyond 4 feet in height requires a special permit from the Board of Aldermen. Provided that adequate standards for tall retaining walls were adopted in the zoning ordinance, this kind of application could easily be resolved at the staff level. Contrast that with the location of a for-profit school in a single-family neighborhood. The latter clearly deserves a public hearing process and due consideration of neighborhood concerns.

Zoning Ordinance Intent

When phase 2 work on policy begins, a good place to start is with the zoning ordinance purpose currently found in Sec. 30-2. While this purpose parallels state statute, many communities have expanded the purposes of their ordinance to more accurately match current conditions. A few examples are included below.

Purpose Statement: *This sample purpose statement illustrates a modern approach to ordinance intent.*

Purpose and Intent

- Implement the policies and goals contained within officially adopted plans, including the Comprehensive Plan;
- Improve the built environment and human habitat;
- Conserve and protect the City's natural beauty and setting, including trees, scenic vistas, and cultural and historic resources;
- Ensure that new development conserves energy, land, and natural resources;
- Protect water quality within watershed critical areas, the general watershed areas of designated water supply watersheds and other watershed districts;
- Encourage environmentally responsible development practices;
- Promote development patterns that support safe, effective, and multi-modal transportation options, including auto, pedestrian, bicycle, and transit, and therefore minimize vehicle traffic by providing for a mixture of land uses, walkability, and compact community form;
- Provide neighborhoods with a variety of housing types to serve the needs of a diverse population;
- Promote the greater health benefits of a pedestrian-oriented environment;
- Reinforce the character and quality of neighborhoods;
- Remove barriers and provide incentives for walkable projects;
- Protect and promote appropriately located commercial and industrial activities in order to preserve and strengthen the City's economic base;
- Encourage compact development;
- Ensure that adequate facilities are constructed to serve new development;and
- Provide for orderly growth and development of suitable neighborhoods with adequate transportation networks, drainage and utilities and appropriate building sites.

The following changes are within the scope of this phase 1 project.

Applications

Submittal Requirements

While it may be appropriate to include a general sense of application requirements in the zoning ordinance, a litany of requirements for the content of a survey may not be required in the ordinance text itself. Many communities now publish these requirements separately in a development handbook that is companion to the ordinance, or better yet -- in approval "packets" that begin with a checklist of all required submittals.

Application Completeness

In communities across the country, one of staff's greatest frustrations is inadequate information from the applicant -- leading to an incomplete application upon which no determination can be made. Many zoning ordinances now explicitly require a review for completeness of an application, prior to the review of its substance. This ensures that staff do not waste time reviewing plans that do not contain all of the necessary information.

Nonconformities

The zoning ordinance currently does a poor job helping applicants understand their rights when they are nonconforming (do not meet the current requirements). In most ordinances, these provisions have been updated to include:

- Nonconforming uses
- Nonconforming structures
- Nonconforming lots of record

This breakdown allows for a careful differentiation between uses that should no longer be allowed in a given district, and structures that are simply out of compliance due to changes in the ordinance over time. A nonconforming use is clearly intended to go away over time (although it is legally allowed to continue as long as it chooses). A nonconforming structure is typically accepted by the neighborhood as a remnant of an earlier pattern of development, or as a modest error in construction that can remain, and perhaps even be allowed to expand over time, provided the expansion is within the current rules applied to the property.

As part of the phase 2 zoning reform, the City should consider eliminating most (if not all) of the date-specific provisions throughout the ordinance, relying instead on a set of clear standards for changes or expansion of nonconformities.

There are currently nonconforming provisions scattered throughout the zoning ordinance, with key pieces in Sec. 30-15.(c) and Sec. 30-21. These should be consolidated in one place.

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