



TOWN OF  
**NEWMARKET**  
NEW HAMPSHIRE

## PLANNING BOARD

August 8, 2023 at 7:00 PM

Town Council Chambers

### DRAFT MEETING MINUTES

**Members Present:**, Val Shelton (Vice-Chair), Bart McDonough (Director of Planning & Community Development), Scott Blackstone (Town Council- Ex officio), Jane Ford, Jeff Goldknopf, Patrick Reynolds, and Timothy Rossignol.

**Member Absent:** Eric Botterman (Chair) and Michal Zahorik (Alternate)

The Vice-Chair opened the meeting at 7:00 PM.

[time on DCAT 2:55]

The voting members this evening will be **Val Shelton, Scott Blackstone, Jane Ford, Jeff Goldknopf, Patrick Reynolds** and **Tim Rossignol**.

#### 1. Pledge of Allegiance

#### 2. Public Comments

The Vice-Chair opened public comment at 7:01 PM. There were no public comments relevant to items not on the agenda this evening. The Vice-Chair closed public comment at 7:02 PM

#### 3. Review & Approval of Minutes

[time on DCAT 3:29]

a. June 13, 2023

##### Action

**Motion:** Patrick Reynolds moved to approve the Draft Minutes of the June 13, 2023 meeting.

**Second:** Jane Ford

**Discussion:** none

**Vote:** Approved 4-0-2 (Val Shelton and Tim Rossignol abstained)

#### 4. Regular Business

Read by the Vice-Chair:

[time on DCAT 4:16 ]

a. Pursuant to RSA 676:4, and Appendix-A Subdivisions, Appendix-B Site Plans, and §32-236 Affordable elderly housing of the Municipal Code of the Town of Newmarket, New Hampshire, a continuation of a public hearing shall be held for an application filed by DR Lemieux Builders LLC requesting Minor Subdivision,

1 **Major Site Plan, and Special Use Permit approval for a proposed development**  
2 **seeking to create a split lot subdivision with the original lot (0.54 acres) retaining**  
3 **the existing single-family housing unit and the new lot (7.22 acres) constructing a**  
4 **32-unit, age-restricted, multi-family development with associated utilities,**  
5 **parking, landscaping and stormwater mitigation infrastructure located on real**  
6 **property with an address of 242 South Main Street, Tax Map U4 – Lot 69 within the**  
7 **R2 zoning district.**

8 **Bart** reported that a letter from the applicant’s attorney was received. He requested a  
9 continuance of the application until the Sept.12, 2023 meeting of the Planning Board.  
10 The project Technical Review Committee (TRC) is scheduled for tomorrow, August 9 at  
11 10:00 AM in the Town Council Chambers.

12 **Action**

13 **Motion:** **Patrick Reynolds** moved to continue this application to the Planning  
14 Board meeting on September 12, 2023.

15 **Second:** **Jane Ford**

16 **Discussion:** none

17 **Vote:** **Approved 5-0-1 (Jeff Goldknopf recused)**

18  
19 The Vice-Chair took a moment to inform the audience members that this application will  
20 not be discussed this evening. The TRC meeting set for tomorrow at 10:00 AM in the  
21 Council Chambers invites the public to attend. They will, however, not be able to  
22 speak/comment during the TRC.

23 \*\*\*\*\*

24 The Vic -Chair asked to re-order the agenda without objection.

25 \*\*\*\*\*

26 **5. New/Old Business** [time on DCAT 7:41]

27 **a. Application for Planning Board Alternate—Abigail K. Bachman**

28 Ms. Bachman rose to speak at the microphone. She has applied to an Alternate position  
29 for a three year term. She gave a brief synopsis of her resume. Ms. Bachman is  
30 currently a brokerage associate with Colliers International in Portsmouth and has lived  
31 in Newmarket for one year. She has always had a goal to become involved in the  
32 community where she settles. She hopes that her experience and knowledge of the real  
33 estate market, zoning regulations, and community awareness will aid in her contribution  
34 to the planning and development decisions of the Town.

35 **Action**

36 **Motion:** **Tim Rossignol** moved approval of **Abigail K. Bachman** as an Alternate  
37 to the Planning Board for a three year term ending on 4/30/2026.

38 **Second:** **Patrick Reynolds**

39 **Discussion:** none

40 **Vote:** **Approved 6-0-0**

41  
42 Ms. Bachman was asked to see the Town Clerk to be sworn into office. It was  
43 suggested that she follow-up with **Bart** to go through the online resources available for  
44 new and continuing Planning Board members. The members are pleased to welcome  
45 her to the Planning Board as an Alternate.

\*\*\*\*\*  
The Vice-Chair returned to the agenda without objection.  
\*\*\*\*\*

**4. Regular Business** (continued)

Read by the Vice-Chair: [time on DCAT 12:20-51:05]

**b. The Planning Board shall hold a discussion on proposed language to amend §32-2 Purpose and §32-11 Definitions and add a new section enumerated and named §32-240 Illicit Discharges that seeks to protect public health and the natural environment by establishing regulations and the legal authority for the municipality to prohibit, prevent and regulate illicit discharges in the Town of Newmarket, or take any other action relative thereto.**

**Bart** spoke this evening to elaborate on this proposed language to amend two sections and add a new section to establish regulations and legal authority to the Town of Newmarket. **Bart, Lyndsay Butler** the Town Engineer (also present this evening), and **Dave Evans**, the Zoning Administrator, have been having conversations about how we might fill in the gaps to protect our stormwater management program. He began with the current conditions and mentioned that the storm drain system is not explicitly covered. Currently the Town has ill-defined regulatory authority and judicial remedies for violations. Also the site plan and subdivision developments are regulated, but the remainder of the properties are not. **Lyndsay** explained that Newmarket is a new permittee (as of 2017). We are still in the process of catching up with the EPA language written into the Stormwater Discharges from Municipal Sources (MS4) Program [Stormwater Discharges from Municipal Sources | US EPA](#). Most other MS4 communities in NH have already addressed this requirement. Originally the MS4 language only spoke to ‘prohibit’ and now it speaks to both ‘prohibit and enforce’. EPA has a brochure that describes Illicit Discharge Detection and Elimination (IDDE) [Illicit Discharge Detection and Elimination \(IDDE\) Guidance Manual \(epa.gov\)](#). The main reasons for proposing the changes are as follows: 1) to protect the public health, welfare, and natural environment of Town, 2) to protect the Town’s municipal storm drain system, 3) to provide predictability and clear guidance to Town residents and commercial entities, 4) to ensure compliance with the mandated regulations, and 5) to establish clarity for the local regulatory authority and enforcement procedures. **Bart** went through the proposed changes in the members packets and **Lyndsay** added that the language being used to change the ordinances is consistent with the definitions that are carried by the State of NH in their stormwater regulations. **Val** asked a question about sump pumps. **Lyndsay** clarified that sump pumps in Newmarket are allowed to connect to the storm drains...they are not allowed to connect to the sewer system. **Tim** had a question about the access to private residences. **Bart** stated that the Code Enforcement Officer would be the enforcement entity using the codes of the Town to enforce the new amendments.

**Action**

**Motion:** **Patrick Reynolds** made a motion that Planning Board recommends that the Town Council adopt the changes as requested under Chapter 32 Zoning regarding Stormwater Management Enforcement.

**Second:** **Jane Ford**

1 **Discussion:** Tim had a question about whether these changes were needed when  
 2 we have other ways to enforce these issues. Lyndsay stated that the EPA has the  
 3 regulatory authority to investigate, but no time or resources. Bart stated that this is a  
 4 means to protect the Town from financial responsibility for pollution by an individual.

5 **Vote:** Approved 6-0-0

6 **[Please see Addendum pages 1-5 for the supported amendments.]**

7 \*\*\*\*\*

8 Read by the Vice-Chair

[time on DCAT 51:21-1:45:18]

9 **c. The Planning Board shall hold a discussion on proposed language to amend**  
 10 **§32-161 Downtown commercial overlay district and §3.21 Architectural/aesthetic**  
 11 **review of the Municipal Town Code of Newmarket, New Hampshire, that seeks to**  
 12 **add architectural design requirements within the Downtown commercial overlay**  
 13 **district, or take any other action relative thereto.**

14  
 15 Bart reviewed the progress to date on the proposed amended language. When last  
 16 discussed, the PB removed the Sinclair property from the overlay district and decided  
 17 on some changes in the language. The draft was changed and provided in the meeting  
 18 packet. **[Please see Addendum pages 6-9 for the current draft.]** Val described the  
 19 new map for the members and those listening on DCAT. The map is available in the  
 20 Planning Office for may be downloaded from the website from the meeting package.

21 Bart described the changes made to the language from the June meeting especially as  
 22 it had to do with 'thresholds' . That is, how does the Town prevent overregulation  
 23 especially when owners are performing renovations to their property? The PB was  
 24 trying not to be too inflexible, but still honor and preserve the character of the  
 25 downtown. Once the language is agreed upon, Bart will send this document to Attorney  
 26 Rattigan and ask him for suggestions on appropriate language. The members had a  
 27 lengthy discussion of over regulations and they agreed that more thought regarding  
 28 exemptions should be contemplated. Patrick and other members want to hear from the  
 29 community on these changes...including the New Market Historical Society and the  
 30 building owners in order to move this forward. Bart wants to be sure that all members  
 31 agree on the language before going forward to the Town Council. The Vice-Chair asked  
 32 each member for their approval/disapproval of this language. Aye: Patrick, Jeff, Jane,  
 33 Tim and Scott. Nay: Val.

#### 34 Action

35 **Motion:** Jeff Goldknopf made a motion to move the discussion of the  
 36 proposed changes of §32-161 and §3.21 to a public hearing to Sept 12.

37 **Second:** Patrick Reynolds

38 **Discussion:** The members agreed that it should be moved to Oct. 10.

39 After additional discussion, Jeff withdrew the motion and Patrick withdrew the  
 40 second. Bart will make further changes in the language based on the discussion this  
 41 evening and will pass this along to the Town Attorney for comment before the PB  
 42 discusses this matter again.

43  
 44 **5. New/Old Business (continued)**

[time on DCAT 1:46:24]

45 **b. Chairman's Report** No report this evening.

46 **c. Committee Reports**

1 Energy and Environment Advisory Committee: **Patrick** reported the committee work is  
 2 virtually complete. They have finished the Community Power plan and are ready to  
 3 submit their draft contributions for the Energy Chapter of the Master Plan for  
 4 consideration by the PB.

5 Conservation Commission: **Jeff** reported the Nature Conservancy Oyster Garden has  
 6 been placed on the Town dock. Signage is up and there are plans to have one public  
 7 informational event/training session and another session before the cages are removed  
 8 later in the fall. The Newmarket Library will be doing another Story Walk called "It Starts  
 9 with a Seed" in the next week or two at Piscassic River-Loiselle Conservation area (270  
 10 Wadleigh Falls Road). The last Story Walk was a great success.

11 CIP: **Jane** reported that **Bart** is trying to schedule a new meeting shortly.

12 Town Council: **Scott** reported that the Town has fixed the sewage leak in the pipe under  
 13 the Lamprey River in Town. This fix should hold for a few years while a plan is worked  
 14 out to run the pipe over the river. The Town is re-doing the cabling in the Town Hall. A  
 15 letter from a citizen formally protesting the flying of the "Pride" flag below the US flag on  
 16 the pole in front of the Town Hall.

#### 17 d. Planner's Report

18 **Bart** reported that the contract for the Master Plan update is ready to go forward to the  
 19 Town Council for final approval. The RFP did not get responses, but the Strafford  
 20 Regional Planning Commission (SRPC) [Strafford Regional Planning Commission –](#)  
 21 [Strafford Regional Planning Commission](#) has agreed to help us. The Town has  
 22 partnered with the SRPC and Plan New Hampshire, The Foundation for Shaping the  
 23 Built Environment [Home page - PLAN NH](#), to design and plan the charrette. All hopes  
 24 are to begin in October and the SRPC will also be helping the Town with re-zoning  
 25 efforts. Other notes: 1) **Bart** was approached by people interested in developing two  
 26 vacant lots on Forbes Road and 2) Eric DeWitt has sold his property at 81 Exeter Road  
 27 (abandoning his approved site plan for development) to the Kent & Pelczar Funeral  
 28 Home.

#### 30 6. Adjourn

[time on DCAT 1:59:16]

#### 31 Action

32 **Motion:** **Jane Ford** moved to adjourn the meeting at 8:55 PM.

33 **Second:** **Patrick Reynolds**

34 **Discussion:** none

35 **Vote:** **Approved 6-0-0**

36  
 37  
 38 Respectfully submitted,

39  
 40 Sue Frick

41 Recording Secretary

42  
 43 **DCAT:**

44 [https://videoplayer.telvue.com/player/XSekdEeRsk0JHQVHAVkVka7\\_5VjxKP/videos](https://videoplayer.telvue.com/player/XSekdEeRsk0JHQVHAVkVka7_5VjxKP/videos)

1 **ADDENDUM page 1**

2

Title: Proposed Zoning Amendments to Regulate Illicit Discharge  
Date: August 8, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 1<sup>st</sup> Draft



**and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

1

2 **Chapter 32 Zoning**

3 **Sec. 32-2. Purpose.**

4 The general purpose of this chapter is to guide the character of growth, development and change in  
5 order to provide for the public health, safety, and general welfare. Throughout this chapter, the town  
6 seeks to balance the process of growth, development and change with the need to preserve and enhance  
7 those qualities, which make Newmarket a safe and desirable place to live, work and visit. In keeping with  
8 this general purpose, the following are specific objectives:

- 9 (1) Lessen vehicle congestion in the streets;
- 10 (2) Secure safety from fires, panic and other dangers;
- 11 (3) Provide adequate sunlight and air circulation;
- 12 (4) Prevent overcrowding of land and avoid undue concentration of population;
- 13 (5) Facilitate adequate provision of public facilities, utilities and services;
- 14 (6) Provide for adequate child day care;
- 15 (7) ~~Assure proper use of natural resources~~ **Protect local natural resources and prohibit illicit discharges to**  
16 **the municipal storm drain system;** and
- 17 (8) Implement the policies of the Newmarket Master Plan, including, but not limited to:
  - 18 a. Enhance the built environment and aesthetic qualities of the town;
  - 19 b. Enhance the downtown village area by providing an appropriate mix of uses, improving its  
20 appearance, maintaining its traditional New England character, enhancing its pedestrian  
21 orientation, and promoting mixed-use mill re-development;
  - 22 c. Promote commercial development, including opportunity for home-based work, to broaden  
23 the tax base and employ residents;
  - 24 d. Enhance the quality of life and foster tourism by enhancing the town's natural beauty,  
25 ecological integrity, and natural recreational amenities such as the downtown waterfront,  
26 Great Bay and the Lamprey River;
  - 27 e. Provide for a variety of quality living arrangements, with emphasis on quality neighborhoods;  
28 and
  - 29 f. Protect the sense of community and friendly small-town atmosphere.
- 30 (9) To advance aesthetic values through design and architecture, because the preservation or  
31 enhancement of the visual environment may promote prosperity and the general welfare.

32  
33  
34 **Sec. 32-2. Definitions.**

35 **Best Management Practice ("BMP") means an activity, procedure, restraint, or an accepted and**  
36 **proven structural, non-structural or vegetative measure which reduces the quantity or improves**  
37 **the quality of stormwater runoff.**

38 **Environmental Protection Agency ("EPA") means the Federal agency responsible for**  
39 **implementing the Federal Water Pollution Control Act, AKA the "Clean Water Act".**

40 **Erosion means the wearing away of the land surface by natural or artificial forces such as wind,**  
41 **water, ice, gravity, or traffic (vehicular or pedestrian) and the subsequent detachment or**  
42 **movement of soil.**

3  
4  
5  
6  
7  
8

1 ADDENDUM page 2  
2



Title: Proposed Zoning Amendments to Regulate Illicit Discharge  
Date: August 8, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 1<sup>st</sup> Draft

**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

43 **Erosion Control** means the prevention or reduction of the movement of soil particles or rock  
44 **fragments.**

45 **Illicit Connection** means an unauthorized or illegal discharge into the Municipal Separate Storm  
46 **Sewer System (MS4), including the following:**

47 1. **Any pipe, drain, open channel or other conveyances that have the potential to allow an**  
48 **illicit discharge or non-stormwater discharge to enter the MS4. Including, but not limited**  
49 **to, any conveyances which allow sanitary sewage, process wastewater, or wash water to**  
50 **enter the MS4. This includes any connections to the MS4 from building drains, sinks or**  
51 **toilets, regardless of whether said connection was previously allowed, permitted, or**  
52 **approved by an authorized enforcement agency.**

53  
54 2. **Any pipe, drain, open channel or conveyance connected from a residential, commercial or**  
55 **industrial land use, to the MS4 which has not been documented in plans, maps, or**  
56 **equivalent records and approved by an authorized federal, state or local enforcement**  
57 **agency.**

58 **Illicit Discharge** means any direct or indirect non-stormwater discharge to the MS4, excepting  
59 **discharges pursuant to a specific National Pollutant Discharge Elimination System (“NPDES”)**  
60 **permit and firefighting activities.**

61 **Municipal Separate Storm Sewer System (“MS4”) or Municipal Storm Drain System** means the  
62 **system of conveyances designed or used for collecting or conveying stormwater, including but**  
63 **not limited to, roads with drainage systems, municipal streets, catch basins, inlets, curbs, gutters,**  
64 **ditches, man-made channels or storm drains, piped storm drains, pumping facilities, retention or**  
65 **detention basins, reservoirs or other drainage structures that together comprise the storm drain**  
66 **system owned and operated by the Town of Newmarket.**

67 **National Pollutant Discharge Elimination System (“NPDES”)** means the water quality program  
68 **setup as part of the Clean Water Act, implemented by the EPA, to regulate the discharge of**  
69 **pollutants into surface waters of the United States.**

70 **Nonpoint Source** means any source of water pollution that does not meet the legal definition of  
71 **“point source” in section 502(14) of the Clean Water Act.**

72 **Non-Stormwater Discharge** means a discharge to the municipal storm drain system not  
73 **composed entirely of stormwater.**

74 **Outfall** means the discernable, confined and discrete point at which stormwater is discharged  
75 **from a municipal or private storm drain system into waters of the State of New Hampshire or of**  
76 **the United States.**

77 **Owner** means a person who alone, or jointly with others, holds the legal title to any premises or  
78 **has care, charge or control over any premises as agent, executor, administrator, trustee, lessee**  
79 **or estate guardian for the holder of legal title.**

1 **ADDENDUM page 3**

2

Title: Proposed Zoning Amendments to Regulate Illicit Discharge  
 Date: August 8, 2023  
 To: Planning Board of the Town of Newmarket, New Hampshire  
 From: Department of Planning and Community Development  
 Addition: 1<sup>st</sup> Draft



TOWN OF  
**NEWMARKET**  
 NEW HAMPSHIRE

**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

80 **Point Source means any discernable, confined and discrete conveyance, including but not limited**  
 81 **to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container from which**  
 82 **pollutants are or may be discharged.**

83 **Pollutant means any element or property of sewage; agricultural, industrial or commercial waste;**  
 84 **runoff; leachate; heated effluent; or other matter whether originating at a point or nonpoint**  
 85 **source, that is or may be introduced into any wastewater treatment works or water of the State of**  
 86 **New Hampshire or of the United States. Pollutants shall include, but not be limited to, the**  
 87 **following:**

- 88 1. **Paints, varnishes, and solvents;**
- 89 2. **Oil and other automotive fluids;**
- 90 3. **Non-hazardous liquid and solid wastes and yard wastes;**
- 91 4. **Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, accumulations**  
 92 **and floatables;**
- 93 5. **Pesticides, herbicides, and fertilizers;**
- 94 6. **Hazardous materials and wastes;**
- 95 7. **Sewage, fecal coliform and pathogens;**
- 96 8. **Dissolved and particulate metals;**
- 97 9. **Animal wastes;**
- 98 10. **Rock, sand, salt, soils;**
- 99 11. **Construction wastes and residues; and**
- 100 12. **Noxious or offensive matter of any kind.**

101 **Pollutant of Concern means a pollutant which causes or contributes to a violation of water quality**  
 102 **standards.**

103 **Receiving Waters means any watercourse, river, pond, wetland, ditch, lake, aquifer, ocean, or**  
 104 **other body of surface water or groundwater that receives a discharge of wastewater, stormwater**  
 105 **or effluent.**

106 **Sediment means mineral or organic matter transported or deposited by water or air.**

107 **Storm Drain means a conveyance which carries storm and surface waters and drainage, but**  
 108 **excludes sanitary sewage and agricultural, industrial and commercial waste.**

109 **Stormwater / Runoff means rainwater, snowmelt, and/or other water that flows off surfaces and**  
 110 **across or over the ground surface rather than infiltrating or being absorbed into the soil.**

112

113 **Sec. 32-240. Illicit discharges**

- 114 a. **Purpose. Increased and contaminated stormwater runoff contributes to water quality**  
 115 **degradation in lakes, ponds, streams, rivers, wetlands, groundwater and other natural**  
 116 **resources; contamination of drinking water supplies; alteration or destruction of aquatic**  
 117 **and wildlife habitat; and flooding. Regulation of illicit connections and discharges to the**  
 118 **Town of Newmarket's municipal storm drain system is necessary for the protection of local**  
 119 **natural resources and to safeguard the public health, safety, and welfare of the community.**

3

4

5

6

7



1 ADDENDUM page 4  
2



Title: Proposed Zoning Amendments to Regulate Illicit Discharge  
Date: August 8, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 1<sup>st</sup> Draft

**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167

**The objectives of this section are:**

1. **Prevent pollutants from entering the municipal storm drain system;**
2. **Prohibit illicit connections and unauthorized discharges to the municipal storm drain system;**
3. **Require the removal of all such illicit connections;**
4. **Comply with state and federal statutes and regulations relating to stormwater discharges; and**
5. **Establish the legal authority to ensure compliance with the provisions of this section through inspection, monitoring, and enforcement.**

**b. Prohibited Activities.**

1. **Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of the connection.**
2. **Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a receiving water or into waters of the State of New Hampshire or of the United States.**
3. **Obstruction of Municipal Storm Drain System. No person or entity shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Public Works Director or their designee.**

**c. Exemptions. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwater discharges, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system and will not imperil public health, the environment or both:**

1. **Discharge or flow from firefighting activities;**
2. **Waterline flushing and flow from potable water sources;**
3. **Springs, natural flow from riparian habitats and wetlands, diverted stream flow and rising groundwater;**
4. **Uncontaminated groundwater infiltration as defined in 40CFR 35.2005(20), as amended, or uncontaminated pumped groundwater;**
5. **Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or sump pumps;**
6. **Discharge from landscape irrigation or lawn watering;**
7. **Water from non-commercial car washing;**
8. **Discharge from de-chlorinated swimming pool or hot tub water (less than one ppm chlorine) provided the pool or hot tub is drained in such a way as not to cause a nuisance;**
9. **Discharge from street sweeping, and stormwater runoff containing sand and deicers used for public safety purposes on public or private property;**
10. **Dye testing, provided verbal notification is given to the Public Works Director or their designee prior to the time of testing;**

3  
4  
5  
6  
7

1 ADDENDUM page 5  
2



Title: Proposed Zoning Amendments to Regulate Illicit Discharge  
Date: August 8, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 1<sup>st</sup> Draft

**Bold and Underlined** = Proposed Language | ~~Strikethrough~~ = Proposed Language to be Removed

- 168 11. **Emergency repairs to the municipal storm drain system, and any stormwater**
- 169 **management structure or practice that poses a threat to the public health or safety,**
- 170 **or as deemed necessary by the Public Works Director or their designee;**
- 171 12. **Discharge permitted under an NPDES permit, waiver, or waste discharge order**
- 172 **administered under the authority of the EPA, provided that the discharge is in full**
- 173 **compliance with the requirements of the permit, waiver or order and applicable laws**
- 174 **and regulations; and**
- 175 13. **Discharge for which advanced written approval is received from by the Public**
- 176 **Works Director or their designee.**
- 177
- 178 d. **Notification of Spills. Notwithstanding other requirements of local, state or federal law, as**
- 179 **soon as a person responsible for a facility or operation, or responsible for emergency**
- 180 **responses for a facility or operation has information of or suspects a release of materials**
- 181 **at that facility or operation resulting in or which may result in discharge of pollutants into**
- 182 **the municipal storm drain system, a receiving water, or waters of the State of New**
- 183 **Hampshire or of the United States, the person shall take all necessary steps to ensure**
- 184 **containment and cleanup of the release. In the event of a release of oil or hazardous**
- 185 **materials, the person shall immediately notify the Public Works Director or their designee.**
- 186 **In the event of a release of non-hazardous material, the reporting person shall notify the**
- 187 **Public Works Director or their designee no later than the next business day. The reporting**
- 188 **person shall provide to the Public Works Director or their designee written confirmation of**
- 189 **all telephone, facsimile or in-person notifications within three business days thereafter. If**
- 190 **the discharge of prohibited materials is from a commercial or industrial facility, the facility**
- 191 **owner or operator shall retain on-site a written record of the discharge and the actions**
- 192 **taken to prevent its recurrence. Such records shall be retained for a minimum of three**
- 193 **years from the date of the discharge.**
- 194
- 195 e. **Emergency Suspension of Municipal Storm Drain System Access. The Public Works**
- 196 **Director or their designee may suspend municipal storm drain system access to any**
- 197 **person or property without prior written notice when such suspension is necessary to stop**
- 198 **an actual or threatened discharge of pollutants presenting an imminent risk of harm to**
- 199 **local natural resources or the public health, safety, and welfare of the community. In the**
- 200 **event any person or entity fails to comply with an emergency suspension order, the Public**
- 201 **Works Director or their designee may take all reasonable steps to prevent or minimize**
- 202 **harm to local natural resources or the public health, safety and welfare of the community.**
- 203 **Access to the municipal storm drain system may be reinstated when the Public Works**
- 204 **Director or their designee are satisfied that the discharge has been eliminated and there is**
- 205 **no imminent risk of harm to local natural resources or the public health, safety and welfare**
- 206 **of the community.**
- 207
- 208 f. **Enforcement. The Code Enforcement Officer of the Town of Newmarket may issue cease**
- 209 **and desist orders pursuant to RSA 676:17-a and levy fines pursuant to RSA 676:15 and**
- 210 **RSA 676:17, for an illicit connection or discharge to the municipal storm drain system or**
- 211 **to water of the State of New Hampshire or of the United States.**

3  
4  
5  
6  
7  
8  
9  
10



Title: Downtown Commercial Overlay District Zoning Amendments  
Date: July 11, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 2<sup>nd</sup> Draft

**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

1

2 **Chapter 32 Zoning**

---

3 **Sec. 32-160. Downtown commercial overlay district.**

- 4 (a) Purpose. The purpose of the downtown commercial overlay district shall be to protect and enhance  
5 the commercial, social, civic and residential functions of the downtown village area. It is recognized  
6 that the village is an important place of business and of social interaction. Controls are intended to  
7 enhance the village by recognizing the importance of street level commercial space, providing for  
8 relatively high density, a mix of uses, and design compatible with the pedestrian scale and historic  
9 nature of the area.
- 10 (b) Overlay district boundaries. The downtown commercial overlay district boundaries shall include all  
11 properties within the M-2 district and having frontage on Main Street ~~or~~ South Main Street, or Exeter  
12 Road.
- 13 (c) Requirements.
  - 14 (1) Standards. Qualifying development activities on lots located within the Downtown commercial  
15 overlay district shall require site plan review, pursuant to Appendix-B Site Plans of the  
16 Municipal Code of the Town of Newmarket, New Hampshire. Notwithstanding, development  
17 activities exempt from site plan review shall adhere to the architectural design standards,  
18 pursuant to Sec. 3.21 Architectural and aesthetic review of Appendix-B Site Plans of the  
19 Municipal Code of the Town of Newmarket, New Hampshire.
  - 20 (2) All permitted uses allowed in the M-2 district shall be allowed, except single-family  
21 residential, excluding manufactured housing, duplex residential, and age-restricted housing  
22 shall be prohibited in any street level space.
  - 23 (3) All uses permitted by special exception in the M-2 district shall follow the applicable  
24 requirements of section 32-46(b)(2), except that multifamily residential shall be prohibited in  
25 any street level space.  
26

27 **Appendix B – Site Plans**

---

28 **Sec. 1.03.—Definitions**

29 **Renovation: An alteration or restoration modifying the exterior portions of an existing structure.**

30 **Sec. 1.05.— Applicability**

31 There are three possible applications of this Regulation to the development or change of a non-residential  
32 or multi-family site. The following criteria specify the level of review necessary:

- 33 (A) *Not Applicable.* Upon receipt of a written letter of acknowledgment from the Code Enforcement  
34 Officer, this Regulation is not applicable for the following:
  - 35 (1) Temporary Events which require no permanent alterations to the site and which function safely  
36 within the approved configuration of the site, as determined by the Code Enforcement Officer;
  - 37 (2) Special Events approved by the Town Council;
  - 38 (3) Home Occupations;
  - 39 (4) Within the M-2 district, change of use, from one non-residential use to another non-residential  
40 use, which involves no more than ~~500~~ 2,000 square feet of gross floor space.

1 **ADDENDUM page 7**

2

Title: Downtown Commercial Overlay District Zoning Amendments  
 Date: July 11, 2023  
 To: Planning Board of the Town of Newmarket, New Hampshire  
 From: Department of Planning and Community Development  
 Addition: 2<sup>nd</sup> Draft



**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

41 **(5) Re-roofing to a building or a renovation affecting 50-percent or less of a building's**  
 42 **exterior for those portions of the building observable from Route 108, Exeter Road,**  
 43 **Main Street or South Main Street on lots located within the Downtown commercial**  
 44 **overlay district.**

45 (B) *Minor Review.* A Minor Review by the Planning Board shall be required for the following:

46 (1) Change of use of a non-residential site, for which no change in floor area is proposed, and  
 47 which either maintains or decreases the intensity of use on the site with respect to parking  
 48 demand and traffic generation or for a site with 2,000 square feet or less of gross floor area;

49 (2) Expansion of non-residential floor space by 500 square feet or less, with no change of use;

50 (3) Within the M-2 district, any change of use of an existing non-residential building which will  
 51 be accompanied by a renovation of the facade of the building which, in the opinion of the  
 52 Planning Board, will enhance its aesthetic contribution to the heritage and visual qualities of  
 53 the village;

54 **(4) A renovation to a building's exterior by more than 50-percent for those portions of the**  
 55 **building observable from Route 108, Exeter Road, Main Street or South Main Street on**  
 56 **lots located within the Downtown commercial overlay district.**

57 **(5) Waiver requests, pursuant to Sec. 5.01 Waivers and Substitutions, from Sec. 3.21**  
 58 **Architectural and aesthetic review, for exterior building renovations on lots located**  
 59 **within the Downtown commercial overlay district.**

60 ~~(4)(6)~~ Site improvement alterations without new development, re-development, expansion or  
 61 change of use; or

62 ~~(5)(7)~~ Establishment of a bed and breakfast.

63 (C) *Major Review.* A Major Review by the Planning Board shall be required for the following:

64 (1) Establishment of non-residential uses where no non-residential use currently exists;

65 (2) Establishment of multi-family use where no multi-family use currently exists;

66 **(3) Development or redevelopment of a lot located within the Downtown commercial**  
 67 **overlay district.**

68 ~~(3)(4)~~ Any other development, re-development, change of use or expansion of a multi-family or  
 69 non-residential site, and not addressed in the § 1.05(A) or (B).

70 **Sec. 3.21. Architectural and ~~aesthetic~~ review.**

71 It is important to the economic success of Newmarket that the appearance of the Town be perceived as  
 72 an attractive commercial environment, which reflects and compliments its heritage. The architecture of  
 73 Newmarket spans several periods of design in New England, including some 18<sup>th</sup> century, 19<sup>th</sup> century,  
 74 and early 20<sup>th</sup> century structures. It is important to continue to allow diversity of building designs and  
 75 architectural styles, which blend well with the buildings from these periods.

76 ~~It is also important to avoid economic hardship and impose unreasonable standards on existing building owners~~  
 77 ~~who wish to make modifications to their structures. The purpose of this section is to strike a balance between~~  
 78 **architectural designs complimenting the town's urban core while fostering economic development**  
 79 **opportunities.** ~~This regulation applies only to structures located along Route 108 or within the downtown~~  
 80 **commercial overlay district.**

3

4

5

6

1 **ADDENDUM page 8**  
2

Title: Downtown Commercial Overlay District Zoning Amendments  
Date: July 11, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 2<sup>nd</sup> Draft



**Bold and Underlined = Proposed Language | Strikethrough = Proposed Language to be Removed**

- 86 (A) Design Criteria. New building designs will be evaluated using the following factors. Design
- 87 criteria are also provided here to assist in this evaluation.
- 88 (1) Scale, proportion, height and area of a building;
- 89 (2) Type, shape, and pitch of roof;
- 90 (3) Size and spacing of windows, doors and other openings;
- 91 (4) Exterior materials and colors;
- 92 (5) Styling of front facade;
- 93 (6) Architectural details and features.
- 94 (B) The following criteria are to be followed not to specifically dictate one particular architectural
- 95 style, but rather to provide guidance to allow structures, which are consistent with one of several
- 96 New England styles present in town.
- 97 (1) Avoid unbroken expanses of walls. Architectural treatment shall be provided for blank building
- 98 faces, which are exposed to public view. Such treatments may consist of varying wall
- 99 setbacks, changing materials or material colors and textures, or other architectural detailing.
- 100 (2) Avoid long unbroken expanses of rooflines through the use of dormers, skylights, chimneys,
- 101 brick firebreaks, and changes in ridgeline.
- 102 (3) Use architectural features and details, such as cornices, pediments, columns, pilasters, corner
- 103 boards, cupolas, skylights and arches to create interesting buildings.
- 104 (4) Door and window openings shall be proportional to the facade length and height. Transom
- 105 lights are encouraged where appropriate to style.
- 106 (5) All rooftop mechanical equipment shall be screened from public view. This may be
- 107 accomplished by a peaked, semi-peaked, or mansard roof.
- 108 (6) Structures shall be compatible with the height, depth, and window proportions of surrounding
- 109 buildings.
- 110 (7) Roof design shall be consistent with the overall design of the building. For example, a
- 111 clapboard or brick building of the late 18<sup>th</sup> century or early 19<sup>th</sup> century design shall have a
- 112 peaked roof, while a brick or stone building representing late 19<sup>th</sup> century architecture may
- 113 have either a peaked, flat or mansard roof.
- 114 (C) All exterior surfaces visible to the public shall be covered with high quality material that is
- 115 durable and easy to maintain. No unclad, plain masonry block construction or corrugated metal
- 116 may be used when visible from any public space, adjacent residential area or roadway. The
- 117 following design features are acceptable when their use is consistent with the overall
- 118 architectural style of the project. Other materials may be considered acceptable if the board
- 119 determines they contribute to the overall aesthetics of the project.
- 120 (1) Roofs.
- 121 (a) Metal, copper, or colored standing seam;
- 122 (b) Shingles of asphalt, fiberglass or fire-treated wood;
- 123 (c) Slate or composite material of slate appearance.
- 124 (2) Walls.
- 125 (a) Wood clapboards (painted or stained), or vinyl;
- 126 (b) Red brick;

3  
4  
5

1 **ADDENDUM page 9**  
2

Title: Downtown Commercial Overlay District Zoning Amendments  
Date: July 11, 2023  
To: Planning Board of the Town of Newmarket, New Hampshire  
From: Department of Planning and Community Development  
Addition: 2<sup>nd</sup> Draft



**Bold and Underlined** = Proposed Language | ~~Strikethrough~~ = Proposed Language to be Removed

- 127 (c) Granite, marble, or stone (natural or finished).
- 128 (3) Windows.
  - 129 (a) Multi-paned windows or groupings (removable mullions are acceptable);
  - 130 (b) Large paned windows, consistent with late 1800s or early 1900s architecture are
  - 131 acceptable on the ground floor;
  - 132 (c) Etched, beveled, sandblasted or stained glass;
  - 133 (d) Other window types as architecturally appropriate or application specific.
- 134 (4) Trim.
  - 135 (a) Wood (painted or stained);
  - 136 (b) Anodized aluminum or vinyl.
- 137 (5) Color.
  - 138 (a) No specific color requirements are mandated; however, the use of day glow colors or
  - 139 garish corporate logos masquerading as painting are discouraged.
- 140 (6) Fencing.
  - 141 (a) All fencing installed in the B-1 and ~~M-2 District along Route 108~~ **and the Downtown**
  - 142 **commercial overlay district** shall be of natural (wood) or architectural materials such as
  - 143 ornamental metal fencing.
  - 144 (b) The installation of chain link fencing in these areas shall be prohibited.
  - 145

3  
4  
5