

**TOWN OF NEWBURY  
ANNUAL TOWN MEETING  
APRIL 30, 2024**

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TO: ONE OF THE CONSTABLES FOR THE TOWN OF NEWBURY, MASSACHUSETTS

NEWBURY TOWN CLERK

GREETINGS:

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, YOU ARE HEREBY DIRECTED TO NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE **TRITON REGIONAL MIDDLE HIGH SCHOOL AUDITORIUM AT 112 ELM STREET** IN SAID TOWN OF NEWBURY ON TUESDAY, THE **30<sup>TH</sup> DAY OF APRIL 2024**, AT 7:00 P.M., TO ACT ON THE FOLLOWING ARTICLES, VIZ:

**ADA ADVISORY – Anyone in need of special accommodations for Town Meeting, please contact the office of the Select Board at 978-465-0862 x301 by April 14, 2024 in order that reasonable accommodations may be made.**

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**GENERAL GOVERNMENT MATTERS**

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**ARTICLE 1.** To meet in our respective voting districts on Tuesday, May 14, 2024, the polls will open at 7:00 AM and close at 8:00 PM, to vote on the following offices:

Pct. 1 – Firefighter’s Memorial Hall, 3 Morgan Ave.

Pct. 2 – Newbury Town Library – 0 Lunt St.

<u>Position</u>	<u>Term</u>
Board of Assessors (1)	Three Years
Board of Health (1)	Three Years
Constable (1)	Three Years
Fish Commissioner (1)	Three Years
Fish Commissioner (1)	Three Years
Library Trustee (2)	Three Years
Planning Board (1)	Five Years
Planning Board (1)	One Year
Select Board (2)	Three Years
Town Clerk	Three Years
Triton Regional School Committee - Newbury	Three Years
Triton Regional School Committee - Rowley	Three Years
Triton Regional School Committee - Salisbury	Three Years
Trustee of First Settlers Burial Ground	Three Years

**ARTICLE 2.** To receive the reports of the Select Board, School Committee, Regular and Special Committees, and all other Town Officers, or take any other action in relation thereto.

**ARTICLE 3.** To see if the Town will fix the salaries and compensation of certain elective officers of the Town as follows:

Town Moderator		\$ 500.00
Select Board	Each Member	\$ 7,500.00
Board of Assessors	Chair	\$ 3,500.00
Board of Assessors	Each Member	\$ 2,500.00
Town Clerk		\$66,475.32
Tree Warden		\$ 5,202.00
Fish Commissioner	Each Member	\$ 1,300.00
Planning Board	Chair	\$ 1,500.00
Planning Board	Each Member	\$ 1,000.00
Board of Health	Chair	\$ 1,500.00
Board of Health	Each Member	\$ 1,000.00

### CITIZEN'S PETITIONS

**ARTICLE 4.** Will the town of Newbury support an initiative to the Select Board to submit a Home Rule Petition which permits the Town to adopt a bylaw which will restrict the use of second-generation anticoagulant rodenticides (SGARs) on privately owned properties, as has been enacted by Select Board on town-owned properties; whereas these rat poisons pose a danger not only to their intended targets but also to wildlife, pets, and humans; eliminating SGARs from our environment would help protect our ecosystem; such Home Rule Petition and later adopted bylaw would provide an educational component to help citizens keep their properties rodent-free and also provide an integrated pest management plan (IPM), overseen by the Board of Health, to implement rodent control; or will the town act on any action related thereto?

(Inserted at the request of Kathleen Downey and ten registered voters.)

### APPROPRIATIONS

**ARTICLE 5.** To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide to meet the salaries and wages of Town Officers and employees, expense and outlays of the Town Departments, and other sundry and miscellaneous, but regular expenditures necessary for the operation of the Town for Fiscal Year 2025;

General Government	\$ 2,886,576.00
Public Safety	3,679,435.00
Education	12,461,652.00
DPW	1,446,005.00
Human Services	519,416.00
Culture & Recreation	471,084.00
Debt Service	854,529.00
Benefits	2,265,386.00
<b>Total Budget</b>	<b>\$24,584,083.00</b>

or take any other action in relation thereto

**ARTICLE 6.** To see if the Town will vote to raise and appropriate the sum of \$100,000.00, to be added to the Stabilization Fund; or take any other action in relation thereto.

**ARTICLE 7.** To see if the Town will vote to transfer from available funds the sum of \$200,000.00, to fund Other Post-Employment Benefits; or take any other action in relation thereto.

**ARTICLE 8.** To see if the Town will vote to transfer or appropriate the sum of \$85,000.00, from the Receipts Reserved Cable Television PEG Access Special Revenue Fund, for the support of PEG access service and programming; or take any other action in relation thereto.

**ARTICLE 9.** To see if the Town will vote to authorize the total expenditures for the following revolving funds pursuant to G.L. c. 44 Section 53E ½ for the fiscal year beginning July 1, 2023 to be expended in accordance with the bylaws heretofore approved;

Fund	Spending Limit
Recreation Revolving Fund	\$50,000.00
Municipal Waterways Improvement and Maintenance Fund	\$59,552.00

or take any other action in relation thereto.

**ARTICLE 10.** To see if the Town will vote to raise and appropriate or transfer from available funds the following sums, or any other sums, to operate the Ambulance Enterprise;

Salaries & Wages	\$ 125,895.00
Expenses	107,215.00
Capital Outlay	12,000.00
Debt Service	0.00
Insurance	5,000.00
Medicare	2,195.00
Indirect Costs	66,904.00
Extraordinary/Unforeseen	12,000.00
Prior Year Deficit	0.00
Total:	\$ 331,209.00

And further that \$331,209.00 be raised as follows:  
Departmental Receipts \$331,209.00

or take any other action in relation thereto.

**ARTICLE 11.** To see if the Town will vote in accordance with the provisions of G.L. c. 44 §21C to authorize the Select Board to enter into lease purchase financing agreements to acquire equipment or improve a capital asset that may be financed by the issuance of debt under G. L. c. 44 or otherwise allowed by law, for a term up to the useful life of the property and to be procured in accordance with appropriate procurement laws or take any other action in relation thereto.

**ARTICLE 12.** To see if the Town will vote to transfer from Ambulance Enterprise Free Cash the sum of \$146,043.00 for the following specific purposes outlined below: or take any other action in relation thereto.

Lease a fully equipped ambulance	\$80,043.00
Purchase a power load stretcher	\$66,000.00

or take any other action in relation thereto.

**ARTICLE 13.** To see if the Town will vote to transfer from Free Cash the sum of \$2,217,499.00. for the following specific purposes outlined below:

Morgan Ave Fire Station Floor Replacement	\$ 60,000.00
Purchase Fire Department Turn Out Gear	\$ 35,000.00
OPEB Actuarial Valuation	\$ 7,000.00
Library HVAC Replacement	\$ 125,000.00
Library Roof Replacement	\$ 650,000.00
Elementary School Roof Replacement	\$ 150,000.00
Elementary School HVAC Replacement	\$1,000,000.00
Elementary School Parking Lot Paving	\$ 90,000.00
Lower Green School House Roof Replacement	\$ 100,000.00
Unpaid Bill	\$ 499.00

or take any other action in relation thereto.

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### Bylaws/Other

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**ARTICLE 14:** To see if the Town will vote to amend the Town of Newbury Zoning Bylaw by adding a new section 87-4.G, MBTA Communities Multi-Family Overlay District and amend the Zoning Map to reflect the Zoning District as follows:

#### Article IV REGULATIONS OF OVERLAY DISTRICT

##### §97-4.G. MBTA Communities Multi-Family Overlay District (MCMOD)

###### (1) Purpose

The purpose of the MBTA Communities Multi-Family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning will allow for opportunities to:

- (a) Increase the production of a range of housing units to meet existing and anticipated housing needs; and
- (b) Increase the diversity of housing and provide more housing choice to meet the needs of residents of different age groups, household compositions, and income levels.

###### (2) Establishment and Applicability

This MCMOD is an overlay district having a land area of approximately 50.1 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Zoning Overlay and Resource Districts Map.

- (a) **Applicability of MCMOD.** An applicant may develop multi-family housing located within the MCMOD in accordance with the provisions of this Section 97-4.G.
- (b) **Underlying Zoning.** The MCMOD is an overlay district superimposed on all underlying zoning districts. The regulations for uses, dimensions, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right in the MCMOD. Uses that are not identified in this § 97-4.G. are governed by the requirements of the underlying zoning district(s). Within the boundaries of the MCMOD, a developer may elect either to develop a Project in accordance with the requirements of this Section 97-4.G., or to develop in accordance with requirements of the regulations for uses, dimensions, and all other provisions of the Zoning Bylaw governing the underlying zoning district.
- (c) **Relationship of MCMOD to Other Zoning Provisions.** Notwithstanding any other provision of this bylaw to the contrary, including any other provision which requires a special permit for development on land (property) which is included in this Overlay District, no development undertaken pursuant to this Section 97-4.G. shall require a permit under zoning other than the Site Plan Review as set for in Section 97-4.G.(7) below.
- (d) **Sub-districts.** The MCMOD contains the following sub-districts, all of which are shown on the map titled "Proposed 3A Subdistricts, Town of Newbury":
  - 01) Newbury North – Sub-District A (North-A), which is generally comprised of certain parcels along the intersection of U.S. Route 1, Middle Road, and Hanover Street;
  - 02) Newbury North – Sub-District B (North-B), which is generally comprised of certain parcels along Hanover Street;
  - 03) Newbury South – Sub-District A (South-A), which is generally comprised of a certain parcel along Kent Way;
  - 04) Newbury South – Sub-District B (South-B), which is generally comprised of a certain parcel along Central Street.

### (3). Definitions.

For purposes of this Section, the following definitions shall apply. Otherwise, section 97-11(D) shall apply.

- (a) **Affordable Housing Restriction.** A use or deed restriction acceptable in form and substance to Massachusetts Executive Office of Housing and Livable Communities (HLC) and the Town that imposes restrictions on Affordable Housing Units to make such units affordable to Income Eligible Households which meets the requirements of HLC's Local Initiative Program (LIP) or any successor program established by HLC for purposes of Subsidized Housing Inventory (SHI) eligibility; and causes the Affordable Housing Units to be eligible for inclusion on the SHI. An Affordable Housing Restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, and be enforceable under the provisions of Chapter 184, §§ 26, 31, and 32 of the Massachusetts General Laws.
- (b) **Affordable Housing Unit.** A housing unit in a development subject to this bylaw that is required to be sold or rented to, as applicable, and occupied by an Income Eligible Household.
- (c) **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.

- (d) **Area Median Income (AMI).** The area median household income as determined by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size, for the metropolitan area that includes the Town.
- (e) **As of right.** Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, or other discretionary zoning approval.
- (f) **Building coverage.** The maximum area of the lot that can be attributed to the footprint of the buildings (principal and accessory) on that lot. Building Coverage does not include surface parking.
- (g) **HLC.** The Massachusetts Executive Office of Housing and Livable Communities, or any successor agency.
- (h) **Income Eligible Household.** A household of one or more persons whose annual income does not exceed 80% of AMI and meets the applicable requirements established by HLC's LIP.
- (i) **Local Initiative Program (LIP).** A program administered by HLC pursuant to 760 CMR 56.00 to develop and implement local housing initiatives that produce low- and moderate-income housing, with or without a comprehensive permit issued pursuant to Chapter 40B, §§ 20 through 23 of the Massachusetts General Laws.
- (j) **Lot.** An area of land with definite boundaries that is used or available for use as the site of a building or buildings.
- (k) **MBTA.** Massachusetts Bay Transportation Authority.
- (l) **Mixed-use development.** Development containing a mix of residential uses and non-residential uses, including, commercial, institutional, industrial, or other uses.
- (m) **Dwelling, Multi-Family.** A building designed for, or containing, three (3) or more residential dwelling units.
- (n) **Open space.** Contiguous undeveloped land within a parcel boundary
- (o) **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- (p) **Permit Granting Authority.** The Permit Granting Authority (PGA) shall include the Planning Board for the issuance of permits.
- (q) **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (r) **Section 3A.** Section 3A of the Massachusetts General Laws Chapter 40A, the Zoning Act.
- (s) **Site plan review authority.** The Planning Board shall have authority over site plan review
- (t) **Subsidized Housing Inventory (SHI).** The list compiled by HLC containing the count of eligible low- or moderate-income housing by a city or town pursuant to 760 CMR 56.00, Chapter 40B of the Massachusetts General Laws, and applicable HLC guidelines.
- (u) **Sub-district.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

#### (4) Permitted Uses

- (a) **Uses Permitted as of Right.** The following uses are permitted as of right within the MCMOD:
  - 01) Multi-family housing.
  - 02) Commercial Uses as allowed by the underlying zoning, when part of a mixed-use development

**(5) Dimensional Standards**

**(a) Table of Dimensional Standards.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the MCMOD for all subdistricts are as follows:

Standard	Subdistricts North-A and South-A	Subdistricts North-B and South-B
<b>Lot Size (square feet)</b>		
Minimum	40,000	40,000
<b>Height<sup>1</sup></b>		
Stories (Maximum)	3	2.5
Feet (Maximum)	40	35
<b>Lot Coverage<sup>2</sup></b>		
Minimum Open Space	40%	50%
Maximum Building Coverage	50%	40%
<b>Setbacks (feet)</b>		
Front yard setback	50	50
Rear yard setback	25	60
Side yard setback 1	25	60
Side yard setback 2	25	60
<b>Density (Housing Units per Acre)</b>		
Maximum	17	8
<b>Parking</b>		
Minimum # of parking spaces per unit	1 per one bedroom or studio 2 per two bedroom or greater	1 per one bedroom or studio 2 per two bedroom or greater

**(6) Affordability Requirement**

**(a) Applicability**

01) Any proposed multi-family residential or mixed-use development containing ten (10) or more rental or ownership dwelling units on any parcel or contiguous parcel(s) comprising a proposed site within the MCMOD shall be subject to the requirements of this section.

**(b) Mandatory Provision of Affordable Units**

01) As a condition of approval for a development subject to this section, a project shall contribute at least 10% of the total housing units in the development subject to this bylaw as Affordable Housing Units constructed or rehabilitated on the locus subject to the development under this Section 97-4.G.(6).

<sup>1</sup> Exceptions. Limitations of height shall not apply to flagpoles, chimneys, radio and television antennae, windmills, silos, water tanks, public utility structures, solar panels, and similar non-inhabitable structures.

<sup>2</sup> Multi-Building Lots. In the MCMOD, lots may have more than one principal building.

- 02) For purposes of this article, any calculation of required Affordable Housing Units that results in the fractional or decimal equivalent of one-half (0.50) or above shall be increased to the next highest whole number. Nothing in this bylaw shall preclude a developer from providing additional affordable units, or greater affordability, or both, than the minimum requirements.
- 03) As a condition for the approval of a project, all Affordable Housing Units shall be subject to an Affordable Housing Restriction. The Affordable Housing Restriction shall be approved by Town Counsel and HLC and shall be recorded at the Essex County Registry of Deeds prior to a building permit being issued for the project and a copy provided to the Planning Board and the Building Commissioner.
- 04) Affordable Housing Units shall be sold or rented, as applicable, to Income Eligible Households at sales prices or rents that are affordable to Income Eligible Households pursuant to an Affordable Housing Restriction.

### **(7) Site Plan Review**

- (a) **Applicability.** Site Plan Review is required for all multi-family or mixed-use projects in the MCMOD. An application for Site Plan Review shall be reviewed by the Permit Granting Authority in accordance with Section 97-9.
- (b) **Requirements.** As part of any application for Site Plan Review for a project within the MCMOD, the Applicant must adhere to Article IX, Section 97-9 of this Zoning Bylaw.
  - 01) As part of Site Plan Review, applicants shall, in addition to the submission requirements set forth in Section A of the Planning Board's "Site Plan Review Submission Requirements and Procedures," submit application materials detailing their adherence with the General Design Standards and Guidelines outlined in Section (8) of this Section 97-4.G as well as adherence to Section 97-9.
  - 02) Prior to submission of a Site Plan Review application for a project within the MCMOD, the Applicant shall file a request with the Planning Director for a mandatory pre-application conference to include, at a minimum, the Planning Director, the Building Commissioner, the Conservation Agent, the Health Director, the Police Chief, the Fire Chief, the DPW Director, and other staff or Board and Commission members as appropriate for the project. The purpose of this pre-application conference is to review with the Applicant the requirements and criteria for site plan approval for a project within the MCMOD and to address questions in order to give the Applicant advice and guidance prior to submitting a Site Plan Review Application, entering into binding commitments, and/or incurring substantial expense in the preparation of plans, surveys, and other data.

### **(8) Design Standards**

#### **(a) Intent**

- 01) This section contains the required design standards and guidelines for the MCMOD that are intended to provide direction to a Project's planning and design.
- 02) These design standards are intended to ensure that the physical character of projects in the MCMOD will comply with the following guiding principles:
  - a) Building styles and materials reflect the vernacular styles of traditionally settled areas of Newbury and other similar communities in the region;
  - b) Materials used for streets, paths, landscape features, etc. also reflect those found locally;



- c) Design features encourage pedestrian travel to and from and within the site and provide a safe and aesthetically attractive pedestrian environment;
- d) Existing natural resources, native vegetation, and the natural topography of the site are preserved and integrated into the site design to the greatest extent practical;
- e) Housing development aligns with the State's climate resiliency goals and follows current guidance for water and energy resource efficient design.

**(b) Applicability**

- 01) These design Standards shall apply to any proposed multifamily or mixed-use development in the MCMOD.
- 02) The Planning Board may waive the design Standards provided that the Board determines that such waiver will substantially further the purposes and intent of this section.

**(c) Site Design, Open Space and Landscaping**

- 01) Projects shall be sited to maximize opportunities for creating usable, attractive, well-integrated Open Space.
- 02) Acceptable activities within the minimum required Open Space include natural areas (including wetlands and surface waters), wildlife and native plant habitat, landscape plantings, agricultural activities, low-impact design stormwater management, non-motorized trails, and other low-impact activities. Open Space shall not contain habitable structures.
- 03) Open Space shall be planned as a single contiguous area and, to the extent practicable, configured contiguously with any abutting conservation open areas.
- 04) Open Space intended for public use shall have direct access from one or more streets, pedestrian ways, sidewalks, and/or other public access.
- 05) Landscape design shall strive to provide greenery so that streets and access drives are lined with shade trees, large paved areas are visually divided and screened, and buffers are provided within and around the Project.
- 06) Landscaped areas shall be planted with drought-tolerant species which do not require any automatic irrigation systems.
- 07) Plantings shall be native species and shall not include species on the Massachusetts Prohibited Plant list, as may be amended.
- 08) Light levels for exterior lighting shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow. The color temperature of exterior lighting shall not exceed 3000 K.
- 09) Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface.

**(d) Building and Structure Placement**

- 01) Placement of buildings and structures in the Overlay District shall:
  - a) Provide for a landscaped buffer between buildings or structures and properties adjacent to the Overlay District;
  - b) Orient buildings to any adjacent usable open space, with access to the building onto or accessible to the usable open space;
  - c) Orient structures to provide pedestrian entrances to any adjoining sidewalks;

- d) Locate trash collection and dumpster locations in appropriate locations, screened to avoid adverse impacts on properties adjacent to the Overlay District;
- e) Minimize the visual impact of the development from the street by locating lower buildings closest to the street frontage and taller buildings in the interior of the parcels.

**(e) Building Massing, Articulation, and Architecture**

01) Architecture shall demonstrate the cohesive planning of the development and present a clearly identifiable design feature throughout. It is not intended that buildings be totally uniform in appearance or that designers and developers be restricted in their creativity.

The following standards shall apply:

- a) To reduce a building's perceived mass, building façades shall be divided into smaller scale horizontal and vertical components, through use of changes in plane and changes in color, material, and texture.
- b) For multi-family buildings of three stories, building design shall maintain a distinction between upper and lower floors. Primary building entrances shall be accentuated. Design features can include covered porches, porticos, and other pronounced architectural forms.
- c) Buildings shall have pitched roofs typical of historic building types in Newbury, with a pitch between 5:12 and 12:12.
- d) Side and rear façades shall be generally consistent with the primary façade's architectural style.
- e) Accessory buildings shall be in the same style as the primary building(s).
- f) Mechanical equipment at grade, attached to, or on the rooftops shall be screened from view or made an integral part of the overall design of the building.
- g) All utility, service, loading, and trash collection areas shall be screened or enclosed by plantings, walls, or solid fencing, or a combination thereof. Enclosures shall be designed to be compatible with the architecture of the adjacent building.

**02) Building Materials**

- a) Materials such as brick, stone, wood clapboard, and cementitious siding such as Hardi-plank shall be used for siding, particularly where visible at the pedestrian level.
- b) Architectural asphalt shingles are preferred for roofing.

**(f) Pedestrian Amenities and Connections**

- 01) Sidewalks shall be a minimum of 5 feet in width, and shall be constructed of concrete, brick pavers, precast pavers, stone, or similar materials.
- 02) Off-street walking trails may be constructed of crushed stone, stone dust, or wood.
- 03) All elements of the pedestrian network shall be accessible to the physically disabled in accordance with the Americans with Disabilities Act and the Massachusetts Architectural Access Board (AAB) or other applicable regulations.
- 04) Pedestrian access shall be provided to link buildings with open spaces, parking areas, recreation facilities, and sidewalks on adjacent properties wherever practical.
- 05) Site planning shall include consideration of future access to bike paths, parks, playgrounds, residential neighborhoods, other businesses, and transportation facilities.

**(g) Resource Efficiency**

- 01) Applicants shall use energy- and water-efficient systems and site designs, resource-efficient materials, and methods of construction that limit the project's environmental impact and minimize regular maintenance costs. This may include but is not limited to:
  - a) Building orientation appropriate for use of solar or other renewable energy collection;
  - b) Electric vehicle charging stations;
  - c) LED and dark sky compliant light fixtures; and
  - d) Technologies to minimize water demand throughout site design.

**(9) Decision**

The Permit Granting Authority shall make and issue decisions within 180 days of the filing of a complete application as certified by the Planning Director. The time within which the Planning Board must act on an application may be extended upon mutual agreement in writing upon request of the Applicant.

- (a)** Final action of the Permit Granting Authority shall include one of the following:
- 01) Approval based on a determination that the proposed project complies with the criteria and design standards set forth in this section and section 97-9(A)(6) of the Zoning Bylaw.
  - 02) Approval subject to any site plan and design performance conditions, modification, and restrictions the Permit Granting Authority may deem necessary to ensure the health, safety, and general welfare of the community.
  - 03) Disapproval of the application for the reasons of an incomplete application.

**(10) Recording**

Any permit issued hereunder shall be recorded in the Essex South Registry of Deeds and no building permit shall issue until a copy of the recorded permit is provided to the Building Inspector and the Planning Director.

**(11) Lapse**

Approval for a project shall lapse after two years from the date of issuance, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for good cause. This two-year period shall not include time required to pursue or await determination of an appeal filed pursuant to G.L. c. 40A, §§ 8 and 17 (Appeals to permit granting authority). Site Plan approval may, for good cause, in the sole opinion of the Planning Board, be extended in writing by the Board upon the written request of the applicant.

or take any other action in relation thereto.

**ARTICLE 15:** To see if the Town will vote to amend the Code of the Town of Newbury, Chapter 97, Zoning, Article IV, REGULATIONS OF OVERLAY DISTRICTS, § 97-4.C. Wireless Communications Facilities, and Attachment 1 – Zoning Overlay and Resource Districts Map to modify the boundaries of the Wireless Communications Tower District as follows (with new language indicated by **underline** and deleted language indicated by ~~strikethrough~~):

1. Amend Section 97-4.C.2.a) by revising subsection (1) and adding new subsections (2) and (3), so that this Section reads as follows:

2. Tower Use Restrictions.

a) A Wireless Communications Tower District (WCTD) has been created to enable wireless communications services to operate on tower-mounted facilities. A Wireless Communications Tower (WCT) may be erected by special permit in the following locations:

(1) Business/ and Light Industrial District.;

**(2) An area in the Agricultural-Residential District on the northerly and southerly sides of Elm Street encompassing Lot 18 on FY2024 Assessors Map R-17 and Lot 60 on FY2024 Assessors Map R-01;**

**(3) An area in the Agricultural-Residential District on the easterly side of High Road encompassing Lot 36 on FY2024 Assessors Map R-32.**

2. Amend Attachment 1 – Zoning Overlay and Resource Districts Map to change “Wireless Communications Service Overlay District” to “Wireless Communications Tower District” and to show the new boundaries for the Wireless Communications Tower District.

or take any other action in relation thereto.

**ARTICLE 16:** To see if the Town will vote to change the use of the surface of landfill including five (5) feet below the surface located at 75 Boston Road, Town of Newbury Assessor’s Map R36 Lot 27 (the “Property”) to be used for general municipal purposes and authorize the Board of Selectmen to negotiate and enter into a lease for the Property for a term of up to thirty (30) years on terms it determines to be in the best interest of the Town, or take any action in relation thereto.

**ARTICLE 17:** To see if the Town will vote to authorize the Select Board to negotiate and enter into an Alternative On Bill Credit Agreement with Alliance Clean Energy, Inc. or its assigns, on terms it determines to be in the best interest of the Town for a term of 30 years pursuant to G.L. c. 25A §11C for the purchase of energy related to the development of a 573.33 kW (DC) +/- solar facility to be located at the site of the landfill at 75 Boston Road, Town of Newbury Assessor’s Map R36 Lot 27 (the “Property”), or take any action in relation thereto.

**ARTICLE 18:** To see if the Town will vote in accordance with G.L. c. 59, Sec 38H to authorize the Select Board and the Board of Assessors to negotiate and to enter into and execute a Tax Agreement with Alliance Clean Energy Inc., or its assigns, for a period of up to twenty (20) years, whereby Alliance Clean Energy Inc., will pay the Town a sum of money per year relative to a photovoltaic solar facility to be located on at 75 Boston Road, Town of Newbury Assessor’s Map R36 Lot 27; or pass any vote or take any action in relation thereto.

**ARTICLE 19:** To see if the Town will vote to authorize the Select Board to petition the General Court of the Commonwealth of Massachusetts to amend Section 5 of Chapter 460 of the Acts of 2008 as follows (**underline and bold** new, ~~cross-out~~ removed) ;

Chapter 460 of the Acts of 2008, Section 5:

SECTION 5. A member of the ~~selectmen~~ **select board**, or of the regional school committee, or of the finance committee, during the term for which the member was elected or appointed, shall be ineligible either by election or appointment to hold any other town office. Any other person appointed by the

select ~~board men~~ or town administrator to a town office under this act or of any general or special law shall be eligible during the term of said office to appointment to any other town office, except that the town accountant shall not be eligible to ~~held~~ hold the position of town treasurer or the position of town collector. The town administrator, subject to applicable General Laws relating thereto, may assume the duties of an office which he is authorized to fill by appointment. The first sentence hereof shall not apply to members of the Finance Committee who may be appointed to serve on the Capital Planning Committee but shall be ineligible either by election or appointment to hold any other town office. At no time shall more than two (2) members of the Finance Committee serve on the Capital Planning Committee.

**SECTION 21: The term "town office" as used in this Act shall be considered any position either elected by registered voters of the town or appointed by the Newbury select board, town administrator, or other town board or committee who's jurisdiction extends to the Newbury town limits and is not part of any greater regional or county organization or office.**

And further that the Select Board shall be authorized to make corrections and adjustments to the foregoing language in the context of approval of this amendment.

Or take any other action relative thereto.

**ARTICLE 20:** To see if the Town will vote to dissolve the existing Newbury Improvement Trust, voted in at Town Meeting on October 25, 2005, and that any remaining net assets of the Trust shall be transferred to the Town and held by the Select Board for such purposes as they were received by the Trust, if any and if not, for the purposes so set forth in the Trust such that any remaining net assets of the Trust may be distributed by the Select Board, including but not limited to in kind distribution, without need for further appropriation, and that the powers of the Trustees shall continue for purposes of affecting the dissolution contemplated hereunder, until such time as the affairs of the Trust are concluded, or take any other action in relation thereto.

**ARTICLE 21:** To see if the Town will vote to revoke General Laws Chapter 44, Section 53 F3/4, which established, more than three (3) years ago, a special revenue fund known as the PEG Access and Cable Related Fund, which reserved cable franchise fees and other cable-related revenues for appropriation to support PEG access services and oversight and renewal of the cable franchise agreement. Instead the special revenue fund will cease as of fiscal year 2026 which begins on July 1, 2025; at which time the balance of the special revenue fund and any future cable franchise fees and cable related revenue will be deposited into the general fund which will thereafter by appropriation, support PEG access services and oversight and renewal of the cable franchise agreement; or take any other action in relation thereto.

**ARTICLE 22:** To see if the Town will vote to amend the Town of Newbury General Bylaws, Chapter 56 "Dogs and Other Animals" and Chapter 109 "Animals" as follows (underline and bold is new language and ~~cross through~~ is omitted language):

Chapter 56, Section 56-1 (D) Licensing:

~~D. Anyone maintaining such a kennel without a proper license shall be subject to a \$100 fine. Each day shall constitute a violation.~~ **Any violation of this subsection shall be punished by a fine of \$50. Each day shall constitute a violation.**

Chapter 56, Section 56-2:

**§ 56-2 Enforcement.**

~~A. The Animal Control Officer shall be the enforcement authority under this bylaw. attend to all complaints and other matters pertaining to dogs and may take whatever legal action he thinks is necessary.~~

~~B. If the Animal Control Officer determines that a bitch in heat, even when confined, is attracting other dogs thus causing a disturbance or damage to neighboring property or public areas, he may require the owner or keeper of said bitch to keep her in a kennel or remove her from the area until out of heat. The Animal Control Officer is authorized to require owners or keepers of dogs to restrain their dogs from running at large in schools, school playgrounds, parks or public recreation areas. [Amended 4-27-1999 ATM, Art. 16; 5-24-2011 ATM, Art. 11; 5-22-2012 ATM, Art. 17; 11-12-2019 STM, Art. 13]~~

~~C. The ACO is authorized to charge a fee of \$25 for any pick-up. A fee of \$50 will be assessed for each subsequent offense.~~

~~[Added 4-27-1999 ATM, Art. 17]~~

### **56-3 At Large Intact Dogs**

**Any person who owns, possesses or controls an intact dog, whether the dog be male or female, shall cause such dog to be confined in a building or secure enclosure in such a manner that such dog cannot come in contact with another animal except for planned breeding, or the dog must be on a leash no longer than six feet in length with a capable adult. A violation of this subsection shall be punishable by a fine of \$50 per offense.**

Add the following section to Chapter 56 as follows:

### **56-4 Calls to Confine and Impounding**

**A. Upon calls to domesticated animals (except dogs), the Animal Control Officer, or any other officer authorized to enforce this bylaw shall assess a charge of \$50 per call.**

**B. A person who owns or keeps a dog within the territorial limits of the Town of Newbury, whose dog was picked up and impounded at the Town holding facility, shall be charged a pick up fee of \$40 per day or part thereof.**

**C. The owner or keeper may obtain the release of an impounded dog as follows:**

**Providing proof of Town of residence valid dog registration**

**Providing proof of valid rabies vaccination**

**Providing photo ID**

**Providing full payment of all shelter fees and fines, if any before the dog is released.**

**D. Dogs impounded and unclaimed by the owner or keeper after such a ten-day period shall be disposed of in accordance with the provisions of MGL c. 140, Section 151A.**

**E. Any dog, cat or domesticated animal impounded due to a medically incapacitated owner and or an incarcerated owner shall be held for no longer than 14 days. After 14 days the owner, next of kin, attorney or otherwise legally responsible person shall:**

**-Pick up the animal**

**or**

**-Surrender the animal to Animal Control Custody**

**The animal may be released to the above mentioned person with proof of valid Town of residence registration, valid rabies vaccination, photo ID and proof of legal guardianship, and all boarding fees must either be paid in full or an agreement must be made between the legal guardian and the Ipswich Select Board regarding any and all fee's due to the Town of Ipswich pertaining to the care of the animal during its hold. Any animal impounded and unclaimed by the owner or legal guardian after such 14 day period shall be considered abandoned property and will be disposed of in accordance with the provisions of MGL c. 140, S. 151A.**

Remove Chapter 109 from the Bylaws in its entirety and add new sections to Chapter 56 as follows:

CHAPTER 109 ANIMALS

**Article I Disposal of Waste**

~~[Adopted 3-25-1997]~~

~~§ 109-1 Owner responsible; violations and penalties.~~

~~All persons owning or in custody of an animal on public recreation areas, a town beach, town playground, town parks, town greens or schoolyards will be responsible for the removal and disposal of that animal's waste which may not be placed in any receptacle owned by the town or in privately owned receptacles other than the owners. The fine for violation of this regulation shall be as follows:~~

~~A. 1st Offense: Fifteen Dollars (\$15).~~

~~B.~~

~~2nd Offense: Twenty-five Dollars (\$25).~~

~~C. 3rd and Subsequent Offenses: Fifty Dollars (\$50).~~

**Article II Dogs on the Beach**

~~[Adopted 6-9-2003]~~

~~§ 109-2 Restriction on dogs on public beach.~~

~~[Amended 8-18-2022]~~

~~No person, being the owner or keeper of a dog, shall allow said dog to be on any part of the public beach, between May 15 and September 15 of each year, from 8:30 a.m. to 5:30 p.m. daily, all dates inclusive.~~

~~§ 109-3 Violations and penalties.~~

~~Whoever violates this article shall be subject to a fine of \$25 for the first offense, \$35 for the second and \$50 for the third and subsequent offenses within one season. Fines to be paid before dog is released.~~

**56-5 Disposal of Waste**

**All persons owning or in custody of an animal on public recreation areas, a town beach, town playground, town parks, town greens or schoolyards will be responsible for the removal and disposal of that animal's waste which may not be placed in any receptacle owned by the town or in privately owned receptacles other than the owners. The fine for violation of this regulation shall be \$50 per offense.**

**56-6 Restriction on dogs on public beach.**

**No person, being the owner or keeper of a dog, shall allow said dog to be on any part of the public beach, between May 15 and September 15 of each year, from 8:30 a.m. to 5:30 p.m. daily, all dates inclusive. The fine for violation of this regulation shall be \$50 per offense.**

**Or take any other action relative thereto.**

AND YOU ARE HEREBY DIRECTED TO SERVE THIS WARRANT BY POSTING AN ATTESTED COPY THEREOF IN EACH VOTING DISTRICT, FOURTEEN DAYS AT LEAST BEFORE THE TIME OF HOLDING SAID MEETING.


HEREOF, FAIL NOT, AND MAKE DUE RETURN OF THE WARRANT WITH YOUR DOINGS THEREON TO THE TOWN CLERK AT THE TIME AND PLACE AFORESAID.

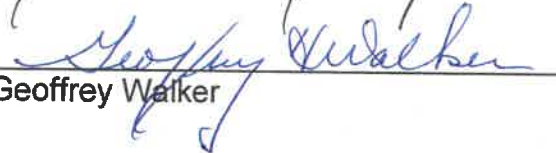
GIVEN UNDER OUR HANDS THIS 12<sup>th</sup> DAY OF MARCH, 2024.

  
Alicia Greco, Chair

  
William DiMaio, Vice Chair

  
Leslie Matthews, Clerk

  
Dana Packer

  
Geoffrey Walker

SELECT BOARD, TOWN OF NEWBURY

A TRUE COPY ATTEST

PURSUANT TO THE ABOVE WARRANT TO ME DIRECTED, I HEREBY NOTIFY AND WARN THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE TIME AND PLACE MENTIONED FOR THE PURPOSE HEREIN NAMED.

DATE: 3-13-24      CONSTABLE: 

PURSUANT TO THE ABOVE WARRANT TO ME DIRECTED, I HAVE NOTIFIED AND WARNED THE INHABITANTS OF THE TOWN OF NEWBURY, QUALIFIED TO VOTE IN TOWN AFFAIRS, TO MEET AT THE TIME AND PLACE MENTIONED FOR THE PURPOSE HEREIN NAMED.

DATE: 3-13-24      CONSTABLE: 