

**TOWN OF NEWBURY
ANNUAL TOWN MEETING
MAY 21, 2013**

ESSEX SS.

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

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 NEWBURY
ELEMENTARY SCHOOL ON HANOVER STREET IN SAID TOWN OF NEWBURY ON
TUESDAY, THE 21st DAY OF MAY AT 7:00 P.M. TO ACT ON THE FOLLOWING
ARTICLES, VIZ:

GENERAL GOVERNMENT MATTERS

ARTICLE 1. To act on the reports of the Selectmen, School Committee, Regular and
Special Committees and all other Town Officers.

ARTICLE 2. To see if the Town will fix the salaries and compensation of all certain
elective officers of the Town as follows:

Town Moderator	\$ 200
Board of Selectmen Each Member	\$ 3,000
Board of Assessors Chair	\$ 3,500
Member	\$ 2,500
Town Clerk	\$52,209
Tree Warden	\$ 3,000
Fish Commissioner Each Member	\$ 1,300

APPROPRIATIONS

ARTICLE 3. To see if the Town will vote to raise and appropriate the sum of
\$16,774,311; and take from the Special Assessment Fund the sum of \$627,261.00; for
the operation of the Town in Fiscal Year 2014; or act in relation thereto.

			CHANGE
FINANCE COMMITTEE RECOMMENDS	FY 13	FY 14	INC (DEC)
MODERATOR SALARY & WAGES	200	200	0
MODERATOR EXPENSES	50	50	0
SELECTMEN STIPEND	12,500	15,000	2,500
SELECTMEN SALARY & WAGES	46,732	47,650	918
SELECTMEN'S EXPENSES	4,160	3,200	(960)
TOWN ADMINSTRATOR SALARY	115,000	115,000	0
IT SERVICES	15,000	15,000	0
PROFESSIONAL & TECHNICAL SERVICES	30,000	30,000	0
TOWN ADMINISTRATOR EXPENSE	5,000	5,000	0
FINANCE COMMITTEE EXPENSES	425	425	0
RESERVE FUND	90,000	90,000	0
FINANCE DEPARTMENT SALARY & WAGES	157,000	160,200	3,200
FINANCE DEPARTMENT EXPENSES	51,000	50,400	(600)
TAX TITLE & FORECLOSURE	49,250	20,000	(29,250)
ASSESSORS STIPEND	7,000	8,500	1,500
ASSESSOR SALARY & WAGES	61,515	105,880	44,365
ASSESSOR EXPENSES	48,150	40,301	(7,849)
AUDIT TOWN BOOKS	25,000	25,000	0
LEGAL EXPENSE	75,000	75,000	0
PERSONNEL BOARD	500	500	0
TOWN CLERK SALARY & WAGES	69,925	69,786	(139)
TOWN CLERK EXPENSES	6,300	5,800	(500)
RECORDS PRESERVATION	0	10,000	10,000
GENERAL CODE UPDATES	5,000	5,000	0
ELECTION EXPENSE	14,047	7,355	(6,692)
REGISTRARS OF VOTERS SALARIES	750	750	0
CONSERVATION SALARY & WAGES	74,942	75,663	721
PLUM ISLAND BEACH MANAGEMENT	5,000	5,000	0
CONSERVATION VEHICLE ALLOWANCE	1,800	1,800	0
CONSERVATION EXPENSES	2,275	2,500	225
BEAVER MANAGEMENT	0	5,000	5,000
STORM WATER MANAGEMENT EXPENSES	6,900	5,000	(1,900)
TREE WARDEN SALARY	3,000	3,000	0
TREE WARDEN EXPENSE	10,000	20,000	10,000
CLAM FLATS TOWN WAGES	4,000	4,000	0
PLANNING BOARD WAGES	60,479	62,205	1,726
PICTOMETRY,MIMAP, ASSESSORS MAP	6,134	3,500	(2,634)
PLANNING BOARD EXPENSES	5,340	5,720	380
MVPC DUES	2,151	2,205	54
ZBA SALARY & WAGES	900	900	0
ZBA EXPENSES	250	250	0
PUBLIC BUILDINGS REPAIRS & MAINT	15,000	15,300	300
PROPERTY RELATED SERVICES	30,000	30,600	600
PUBLIC BUILDINGS UTILITIES	50,000	51,000	1,000

PUBLIC BUILDINGS IMPROVEMENTS	65,000	50,000	(15,000)
TOWN REPORTS	250	250	0
INSURANCE EXPENSE	138,000	144,900	6,900
POLICE SALARY & WAGES	953,086	1,122,113	169,027
POLICE EXPENSE	131,630	145,000	13,370
POLICE CAPITAL OUTLAY	30,000	32,500	2,500
BYFIELD FIRE PROTECTION WAGES	104,066	106,150	2,084
BYFIELD CALL FIRE WAGES	77,063	78,605	1,542
BYFIELD FIRE PROTECTION FLAT RATE	59,750	70,000	10,250
BYFIELD TRAINING WAGES	4,000	8,000	4,000
FIRE INSURANCE PREMIUMS	23,000	23,000	0
NEWBURY FIRE PROTECTION WAGES	93,647	95,520	1,873
NEWBURY CALL FIRE WAGES	77,063	78,605	1,542
NEWBURY FIRE PROTECTION FLAT RATE	59,750	70,000	10,250
NEWBURY TRAINING WAGES	4,000	8,000	4,000
EMERGENCY MANAGEMENT EXPENSE	0	10,000	10,000
BUILDING INSPECTOR SALARY & WAGES	113,838	116,265	2,427
INSPECTORS VEHICLE ALLOWANCE	5,400	5,400	0
BUILDING INSPECTOR EXPENSES	7,000	8,000	1,000
SEALER OF WEIGHTS & MEASURES	2,500	2,500	0
ANIMAL CONTROL SALARY & WAGES	21,404	21,805	401
ANIMAL CONTROL EXPENSES	3,200	3,500	300
HYDRANT SERVICE	15,000	15,000	0
TRITON OPERATING ASSESSMENT	8,915,304	8,568,972	(346,332)
TRITON DEBT ASSESSMENT	211,644	188,040	(23,604)
WHITTIER TECH ASSESSMENT	109,122	206,896	97,774
WHITTIER TECH ASSESSMENT	0	16,646	16,646
DPW SALARY & WAGES	422,631	430,521	7,890
DPW EXPENSES	160,000	180,000	20,000
ROAD IMPROVEMENT PROGRAM	0	80,000	80,000
CAPITAL OUTLAY	0	0	0
SNOW & ICE REMOVAL	120,000	155,000	35,000
STREET LIGHTING	40,000	46,000	6,000
BOARD OF HEALTH SALARY & WAGES	86,960	60,960	(26,000)
BOARD OF HEALTH EXPENSES	207,100	56,330	(150,770)
COUNCIL ON AGING SALARY & WAGES	59,463	58,463	(1,000)
COUNCIL ON AGING EXPENSES	6,650	4,010	(2,640)
VETERANS ASSESSMENT	4,000	19,260	15,260
VETERANS SERVICES BENEFITS	31,000	31,000	0
LIBRARY SALARY & WAGES	154,342	158,033	3,691
LIBRARY EXPENSES	52,500	65,000	12,500
HISTORIC COMMISSION	650	650	0
MEMORIAL DAY	816	750	(66)
LONG TERM DEBT PRINCIPAL	1,746,759	1,626,230	(120,529)
LONG TERM DEBT INTEREST	271,849	236,335	(35,514)
ESSEX REGIONAL RETIREMENT ASSMT	473,079	476,172	3,093

UNEMPLOYMENT EXPENSE	30,000	10,000	(20,000)
HEALTH INSURANCE EXPENSE	569,195	614,750	45,555
DENTAL INSURANCE EXPENSE	29,650	28,240	(1,410)
LIFE INSURANCE EXPENSE	1,300	1,300	0
MEDICARE EXPENSE	41,416	40,000	(1,416)
ARTICLE 3 TOTALS	16,901,752	16,774,311	(127,441)

ARTICLE 4. To see if the town will vote to raise and appropriate the sum of \$250,000.00, or any other sum, to be added to the Stabilization Fund; or act in relation thereto.

ARTICLE 5. To see if the town will vote to raise and appropriate the sum of \$25,000.00, or any other sum, to fund Other Post Employment Benefits; or act in relation thereto.

ARTICLE 6. To see if the Town will vote to appropriate the sum of \$16,000.00, or any other sum, from Free Cash to purchase structural firefighter gear; or act in relation thereto.

ARTICLE 7. To see if the Town will vote to appropriate the sum of \$50,000.00, or any other sum, from Free Cash make repairs to the Newbury Elementary School; or act in relation thereto.

ARTICLE 8. To see if the Town will vote to appropriate \$411,715.00, or any other sum, of so-called Chapter 90 funds for use by the Department of Public Works for street and road repair work, as well as related expenditures; or act in relation thereto.

ARTICLE 9. To see if the Town will vote to appropriate the sum of \$35,000.00, or any other sum, from Free Cash to make repairs to the Town of Newbury Library; or act in relation thereto.

ARTICLE 10. To see if the Town will vote to appropriate the sum of \$30,000.00, or any other sum, from Free Cash to insulate and sheetrock the new DPW 2 bay garage; or act in relation thereto.

ARTICLE 11. To see if the Town will vote to appropriate the sum of \$51,000.00, or any other sum, from Free Cash to purchase a one ton dump truck with a plow for the DPW; or act in relation thereto.

ARTICLE 12. To see if the Town will vote to reauthorize the revolving account entitled "Recreation Revolving Fund" established pursuant to Massachusetts General Laws Chapter 44, Section 53E½, funded by fees field rental and expended by the Recreation Committee for the purposes of maintaining certain fields, with a spending limit of \$60,000 for Fiscal Year 2014, or take any other action relative thereto.

ARTICLE 13. To see if the Town will vote to reauthorize the revolving account entitled "Municipal Waterways Improvement and Maintenance Fund" established pursuant to Massachusetts General Laws Chapter 44, Section 53E½, funded by the waterways excise under G.L. c. 60B Section 2(a) and sums received from waterway fees, permits, fines and/or any other designated sources, to be expended by the Harbormaster with the approval of the Town Administrator for the purposes of paying the part time seasonal wages and expenses of the Harbormaster Department and improving and maintaining the waterways within the Town, with a spending limit of \$70,000 for Fiscal Year 2014, or take any other action relative thereto.

BY-LAWS/OTHERS

ARTICLE 14. To see if the Town will vote to adopt the following Street Opening Requirements as Chapter 89 of the Code of the Town of Newbury; or act in relation thereto.

Chapter 89 STREET OPENING REQUIREMENTS

89-1 General -A Street Opening Permit must be obtained from the Inspectional Services Department (ISD) for any excavation within the layout of a Town street, including sidewalk or shoulder areas.

89-2 Permit Requirements: The applicant must complete the following items before a permit will be issued:

A. Premark the work area as required by the "Dig Safe Law", Massachusetts General Laws Chapter 82, Section 40.

B. Contact Dig Safe and obtain a Dig Safe # at least 72 hours in advance of the excavation start date, exclusive of Saturdays, Sundays and legal holidays. Also contact the Newbury DPW Office (978-465-0112), Newburyport Water Dept. (978-465-4420), Newburyport Sewer Dept. (978-465-4414) and/or the Byfield Water Department (978-462-3023) as needed at least 72 hours in advance of the excavation start date, exclusive of Saturdays, Sundays and legal holidays to request a mark-out of water, sewer and drain lines in the area.

C. A performance bond for a minimum of \$ 5,000.00 must be submitted or a current bond must be on file with the ISD. On larger jobs such as main line installations or extensions, the Director of Public Works or his agent will establish the amount of said bond.

D. A Certificate of Insurance must be submitted with the following coverage requirements:

1. Comprehensive General Liability:

Bodily Injury Minimum coverage

Each Person \$ 500,000

Each Accident \$ 500,000

Property Damage

Each Accident \$ 100,000

Aggregate \$ 300,000

2. Workers Compensation Insurance as required by Law.

3. The Town of Newbury as additionally insured must be included on the policy.

E. A fee of \$100.00 is required for all Street Opening Permits, including emergency excavations. This fee must be paid at the time the permit is issued.

F. Obtain a separate **Trench Permit** for any proposed trench excavation in excess of three feet in depth, pursuant to Massachusetts General Law, Chapter 82A, Section 1 and 520 CMR 7.00 et seq. (as amended). A fee of \$50 is required for a Trench Permit.

G. The original Bond and original Certificate of Insurance must be submitted to the ISD before a permit can be issued. No permit will be issued before the bond or insurance is in effect. The Bond must remain in effect for a period of at least one year. Copies of the permit shall be given to the Fire Department and Police Department of the Town of Newbury. If the Police Department decides that a police officer or officers are needed to insure the safety of the public during construction, the cost shall be borne by the permit holder. Two names, addresses and phone numbers shall be provided to the Director of Public Works or his agent and the Police Department for use in the event of an emergency. The Director of Public Works or his agent shall be notified 24 hours before the actual start of any project and 24 hrs. before resuming work after a break in the project. Permits for any non-emergency excavations are prohibited on any road that has been resurfaced within the past 5 years. Also, permits will not be issued for any non-emergency work during the winter period from November 15 to April 1 of the following year.

89-3 Excavation and Restoration:

A. General:

All work and materials shall be in conformance with the current edition of the "Massachusetts Department of Public Works Standard Specifications for Highways and Bridges" and any supplemental specifications, as they pertain to street utility excavations and repairs unless modified herein. In locations where allowed by the Director of Public Works, a trenchless utility installation method may be used rather than an open cut method, and in some instances this method may be a strict requirement instead of an open cut method.

B. Signs and Safety:

Provisions shall be made for the safety and protection of vehicles and pedestrians at all times during the construction period. All signs and warning devices shall be according to the 2003 edition of the Manual on Uniform Traffic Control Devices (MUTDC).

C. Cutting by Mechanical Means:

All road surfaces shall be cut by an approved mechanical means before any excavation is started to insure against unnecessary damage to the pavement.

D. Excavation:

Excavation shall be done in a safe manner so as to create a minimum amount of obstruction to pedestrian or vehicular traffic.

E. Backfilling Trenches:

Suitable material of a stable nature shall be used and placed in six-inch layers and thoroughly compacted to 95% of the maximum dry density by mechanical means. In roadway areas, the top of the trench shall be backfilled with twelve inches of approved gravel, placed in two layers and compacted by mechanical means to 95%.

F. Temporary Trench Patch:

All trenches shall be resurfaced with a temporary patch at the end of each working day with a minimum thickness of 3" of hot-mix bituminous concrete. This should be allowed to remain for a period of one year and be maintained by the permit holder. Any settlement or unsatisfactory areas shall be immediately repaired when notified. No permanent resurfacing shall be done without permission from the Director of Public Works or his agent. He shall be the sole agent to determine whether the trench is ready for permanent resurfacing. The contractor shall be required to thoroughly clean all road surfaces at the end of each day.

G. Permanent Trench Resurfacing:

1. All trenches shall be cut back 1' on each side from original cut by an approved mechanical means and remove pavement, including temporary patch.
2. Four inches of bituminous concrete placed in two layers of 2 1/2" binder and 1 1/2" top and rolled with a powered roller having a weight of five tons or more. Existing

pavements thicker than 4" shall be replaced to an equal thickness using materials as similar as possible to the existing (concrete or cobblestone with concrete, crushed stone with bituminous concrete etc.).

3. Before placing bituminous concrete, all joints shall be satisfactorily emulsified and again after placing top course of bituminous concrete, all joints shall be emulsified and sanded using screened sand.
4. The contractor shall maintain pavement during the guarantee period of one year from the date of permanent resurfacing.

H. Sidewalks and Driveways:

Any sidewalk that is disturbed shall be removed and replaced to its entire width. Sidewalks being replaced or extended shall have a minimum width of 5'. All structures shall be raised at the permit holder's expense. The Town shall specify the grade at which the new sidewalk or driveway is to be replaced, and the cost of raising or lowering the grade shall be borne by the permit holder. The limit of any driveway apron replacement shall be reviewed with the Town's agent and shall generally be from the edge of the traveled way to the rear edge of the sidewalk or the layout line. Sidewalk cross slopes shall be 1.5%. Curbs shall be restored completely to match existing curbing

1. **Bituminous concrete sidewalks and driveway aprons:** 3" of bituminous concrete placed in two layers of 2" binder and 1" top on 8" of well-compacted gravel. Roller to be five tons or more. All joints in sidewalks and driveways are to be emulsified and sanded.
2. **Cement concrete sidewalks and driveway aprons:** Cement concrete shall be a 4" thick monolithic pour, 4000 lbs., with ¾" stone, 6 x 6 10/10 wire mesh, air entrained with an expansion joint every 30 feet using approved expansion joint material on 8" of well-compacted gravel. Driveway aprons shall be the same as sidewalks except thickness of concrete must be 6" inches. All sidewalks and drives shall be sprayed with an approved curing compound and protected against drying too rapidly.

I. Trenchless Utility Installation Requirements:

In locations where trenchless utility installations are to be used instead of an open cut across a road or driveway, a directional drilling method, which includes a drilling and tracking system, as approved by the Director of Public Works, shall be employed. Pneumatic boring or "punching" method is prohibited, unless otherwise approved by the Director of Public Works.

89-4 Special Requirements:

A. Backfilling and Paving:

Special backfilling and paving may be required in addition to the above specifications where ordered by the Director of Public Works. Special requirements may include, but are not limited to the following:

1. **CDF Backfilling:** Trenches shall be backfilled to within four inches of the existing pavement surface with Controlled Density Fill (CDF), Type 2E, Flowable (Excavatable) conforming to Subsection M4.08.0 of the MDPW Standard Specifications for Highways and Bridges referenced above. Steel plates may be necessary to cover the CDF until it has reached suitable strength to support traffic, at which time the plates shall be removed and Permanent Resurfacing of 4 inches of bituminous concrete (2.5" binder & 1.5" top) shall be placed and compacted as specified above.
2. **Infra-red Surface Treatment:** After the Permanent Trench Resurfacing has been completed as specified above, the entire trench surface shall be finished using an approved infra-red heater to soften the pavement to depth of two or more inches. The area to be treated shall extend one foot outside each side of the trench to blend with the existing pavement.
3. **Full width overlay:** After the Permanent Trench Resurfacing has been completed as specified above, a 1 1/4" thick, curb to curb, bituminous concrete overlay may be required on main line utility extensions or main replacement projects as determined by the Director of Public Works. Adjustment of all valve boxes and road castings shall be included. Cold milling shall be completed as needed to maintain the curb reveal and to match the elevation of adjoining roadways and driveways.

B. As-Built Plans:

Upon completion of any water, drain or sewer main extension or replacement, an as-built plan, prepared by a Professional Engineer, meeting the satisfaction of the ISD and Director of Public Works, shall be submitted within 30 days of completion of the main installation.

89-5 Fines:

As provided in MGL c. 40. §21D (non-criminal disposition), any person or contractor of any kind, including utility companies who perform nonemergency excavation work without a valid permit shall be fined \$200.00

each day per occurrence per site until a permit or permit extension has been applied for and approved.

Any person or contractor of any kind, including utility companies who performs emergency work and fails to apply for a permit within two (2) working days following the commencement of work shall be fined \$200.00 each day until a permit extension has been applied for and approved.

Any person or contractor of any kind, including utility companies who performs work without a permit on the basis that it is an emergency and it is subsequently determined by the Permitting Authority that the work was not a bonafide emergency, shall be fined \$200.00 each day until a permit extension has been applied for and approved.

ARTICLE 15. To see if the Town will vote to adopt Massachusetts General Law Chapter 32, Section 4 (2)(b); or act in relation thereto.

ARTICLE 16. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact legislation as follows:

AN ACT AUTHORIZING THE BOARD OF ASSESSORS OF THE TOWN OF NEWBURY TO GRANT AN ABATEMENT OF REAL ESTATE TAXES TO CERTAIN PLUM ISLAND HOME OWNERS FOR FISCAL YEAR 2013.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding chapter 59 of the General Laws or any other general or special law to the contrary, the board of assessors in the town of Newbury are hereby authorized to grant real estate tax abatements in the amount stated \$10,087.07 to the following home owners, whose homes at the following addresses on Plum Island in Newbury were destroyed as a result of beach erosion between March 9, 2013 and March 30, 2013, said abatements covering the period of March 9, 2013 through June 30, 2013:

- | | | |
|---------------------------------|--|------------------|
| 1. Kirkpatrick, Susan Leone | Kirkpatrick, Scott D. | 38 Fordham Way |
| 2. Trout, Harry R. Jr., Trustee | The Harry R. Trout Jr. Revocable Trust | 36 Fordham Way |
| 3. Tuthill, Genevieve M. | | 34 Fordham Way |
| 4. Azzarito, Cecilia R. | Azzarito, Joseph F. Trustees | 31 Annapolis Way |
| 5. Nee, Thomas G. | | 37 Annapolis Way |
| 6. Bandoian, Stephen J. Trustee | Bandoian, Lucy Trustee | 41 Annapolis Way |

SECTION 2. This act shall take effect upon its passage;

or act in relation thereto.

ARTICLE 17. To see if the Town will vote to authorize the Board of Selectmen to enter into a contract with the Commonwealth of Massachusetts for the construction and maintenance of public highways for the ensuing year; or act in relation thereto.

ARTICLE 18. To see if the Town will vote to assume liability in the manner provided by Section 29, Chapter 91 of the General Laws, as amended, for all damages that may be incurred by work to be performed by the Commonwealth for the improvement, development, maintenance and protection within the Town of Newbury, of tidal and non-tidal rivers and streams, harbors, tidewaters, foreshores and shores along a public

beach, in accordance with Section 11 of Chapter 91 of the General Laws, and authorize the Selectmen to execute and deliver such bond of indemnity therefore to the Commonwealth as may be required for such work; or act in relation thereto.

ARTICLE 19. To see if the Town will vote to adopt Section 24 of the Acts of 2009, Chapter 27 and amend Section 5K of Chapter 59 of the General Laws, as so appearing by striking out, in line 13, the figure “\$750” and inserting in place thereof the following figure: “\$1,000”; or act in relation thereto.

ARTICLE 20. To see if the Town will vote to amend Chapter 56 (Dogs and Other Animals) of its general by-laws by amending Chapter 56, Section 1.A to read as follows: All dogs 6 months old or over must be licensed and tagged. Licensing will be done through the Town Clerk’s office. The license period shall run from January 1st to December 31st of each calendar year, both dates inclusive. The owner or keeper of an unlicensed dog after February 1st will be fined \$10.00 in addition to the license fee, or act in relation thereto.

ARTICLE 21. To see if the Town will vote to amend Chapter 56 (Dogs and Other Animals) of its general by-laws by amending Chapter 56, Section 1.B to read as follows: Licensing fees shall be \$10 per spayed or neutered dog and \$15 for intact dogs. Kennel fees are as follows: 4 dogs or less \$40.00, 5 to 10 dogs \$75.00, more than 10 dogs \$125.00. The fee for a commercial kennel including an animal day-care facility is \$125.00. The license period shall run from January 1st to December 31st of each calendar year, both dates inclusive. New kennel licenses may be issued pending an informational meeting, inspection and approval from the Animal Control Officer, or act in relation thereto.

ARTICLE 22. To see if the Town will vote to amend Chapter 56 (Dogs and Other Animals) of its general by-laws by amending Chapter 56, Section 1.D to read as follows: Anyone maintaining such a kennel shall be subject to a \$100 fine. Each day shall constitute a violation, or act in relation thereto

ARTICLE 23. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws, ARTICLE II – USE DISTRICTS, to modify the boundaries of the Business and Light Industrial District (BLI) as follows:

1. Revise the Zoning Map referenced in §97-2.B.(1) to show new boundaries for the Business and Light Industrial District (BLI) as described below.

2. Delete § 97-2.B.(2)(i) in its entirety and replace it with a new § 97-2.B.(2)(i) as follows:

(i) Business and Light Industrial:

Beginning at a point on the center line of U.S. Route #1 at the Newburyport municipal boundary, thence southwards along the center line of U.S. #1 to a point on the center line of Middle Road, thence southwesterly by the center line of Middle Road to the center line of Highfield Road, thence northwesterly by the center line of Highfield Road to the center line of Scotland Road, thence northerly along the center line of Scotland Road to the Newburyport line and thence eastwards along the municipal boundary to the point of beginning.

An area west of Route 1 encompassing Lots 14, 15A, 15, 16, 17, 18, 19, and 1 on FY2013 Assessors Map R-36 and Lots 13, 14, 14A, 15, 16, 17, 18, 19, 20, 21, and 22 on FY2013 Assessors Map R-47.

An area east of Route 1 encompassing Lots 27, 28, 29, 38, 39, 40, 41, 41A, 42, 43, 43A, 44, 45, 46, 4, 6, 7, 8, 9, 10A, 10, 11, 12A, 12 on FY2013 Assessors Map R-47, Lots 41, 42, and 43 on FY2013 Assessors Map U-08, and Lots 20, 22, 25, 23, and 24 on FY2013 Assessors Map R-36.

or act in relation thereto.

ARTICLE 24. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws, ARTICLE II – USE DISTRICTS, to modify the boundaries of the portion of the Commercial Highway District (CH) located along Central Street on the easterly side of the Route I-95 right-of-way as follows:

1. Revise the Zoning Map referenced in §97-2.B.(1) to show new boundaries for the portion of the Commercial Highway District (CH) located along Central Street on the easterly side of the Route I-95 right-of-way as described below.
2. Delete the first paragraph of § 97-2.(e) beginning with “An area at the Northeast Junction...” in its entirety and replace it with a new paragraph as follows:

An area in Byfield northeasterly of the junction of the right-of-way of I-95 and Central Street encompassing Lots 25, 25A, 25B, 26, 26A, 26B, 26C, 26D, 27, 28, 29, 30, 31, 32, and 34 on FY2013 Assessors Map R-20.

or act in relation thereto.

ARTICLE 25. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws, ARTICLE II – USE DISTRICTS, to modify the boundaries of the Byfield Village Business District (BVB) as follows:

1. Revise the Zoning Map referenced in §97-2.B.(1) to show new boundaries for the Byfield Village Business District (BVB) as described below.
2. Delete the third paragraph of § 97-2.B.(2)(d), beginning with “An area in Byfield west of Main Street...” in its entirety and replace it with two new paragraphs as follows:

An area in Byfield west of Main Street encompassing Lots 37, 41, 42, 43, 44, 45, 46A, 46, 47, and 49 on FY2013 Assessors Map U-13 and Lots 1, 2, 3, 4, 5, 6, and 7 on FY2013 Assessors Map U-12.

An area in Byfield southeasterly of Lunt Street encompassing Lot 67 on FY2013 Assessors Map U-11 and Lots 12, 13, 14, 15, 16, and 17 on FY2013 Assessors Map U-14.

or act in relation thereto.

ARTICLE 26. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws, ARTICLE III – REGULATIONS OF USE DISTRICTS, to modify certain uses in § 97-3.M. Table of Use Regulations (“97 Attachment 4” of the Code of the Town of Newbury) and revise related language in § 97-3.C.(1)(a), as follows:

1. Revise, delete, relocate and/or change permitting requirements for certain uses in six use categories – Commercial Uses, Municipal and Community Facilities, Industrial Uses, Wholesale and Transportation Uses, Marine Uses, and Residential Uses – in the Table of Use Regulations referenced in § 97-3.M. and included as “97 Attachment 4” in the Code of the Town of Newbury as shown in the following abridged Table of Use Regulations. Deleted language is indicated by ~~strike-through~~; revised, added, and relocated language is indicated by *underlined italics*. Uses are to be reinserted into the full Table of Use Regulations in their original location, except for uses moved to a different category as indicated below. Uses not included in the abridged table below are unchanged.

Note on Abbreviations:

Permitting:	P	= Permitted
	SP	= Special Permit of the Planning Board
	SPS	= Special Permit of the Board of Selectmen
	SPA	= Special Permit of the Zoning Board of Appeals
	NP	= Not Permitted

Use Districts: R-AG = Agricultural Residential
 PR = Parker River Residential
 R-LB = Residential-Limited Business
 BVB = Byfield Village Business
 CH = Commercial Highway
 CHA = Commercial Highway A
 LIB = Light Industrial Byfield
 UGB = Upper Green Business
 BLI = Business and Light Industrial
 PRM = Parker River Marine

TABLE OF USE REGULATIONS											
PRINCIPAL USE	DISTRICT										
	R-AG	PR	R-LB	BVB	CH	CHA	LIB	UGB	BLI	PRM	
COMMERCIAL USES											
Customary home occupation	P	P	P	P	P	NP	NP <u>P</u>	P	NP <u>P</u>	P	
Mixed use structure	NP	NP	NP	P	NP <u>P</u>	NP <u>P</u>	NP	P	P	P	
Retail/service kiosk automated teller machine (<i>standalone as primary use</i>)	NP	NP	NP	NP <u>P</u>	P	P	NP	NP <u>P</u>	P	P	
Retail/service kiosk automated teller machine as an ancillary use to the primary use	<u>NP</u>	<u>NP</u>	<u>NP</u>	NP <u>P</u>	NP <u>P</u>	NP <u>P</u>	<u>NP</u>	NP <u>P</u>	NP <u>P</u>	<u>P</u>	
Sales by vending machines (<i>standalone as primary use</i>)	NP	NP	NP	NP	SP <u>NP</u>	SP <u>NP</u>	NP	NP	P <u>NP</u>	P <u>NP</u>	
Sales by vending machines as an ancillary use to the primary use	NP <u>SP</u>	<u>NP</u>	<u>NP</u>	NP <u>P</u>	NP <u>P</u>	NP <u>P</u>	<u>NP</u>	<u>NP</u>	NP <u>P</u>	<u>P</u>	
Indoor and outdoor	NP <u>SPS</u>	NP	NP	NP <u>SPS</u>	SPS	SPS	NP	NP	P <u>SPS</u>	P <u>SPS</u>	

TABLE OF USE REGULATIONS											
PRINCIPAL USE	DISTRICT										
	R-AG	PR	R-LB	BV B	CH	CH A	LIB	UG B	BLI	PR M	
recreation areas and facilities, including, but not limited to, play grounds, health and fitness centers, miniature golf, golf driving range, batting cage, tennis courts, skating rink, boating, fishing, <u>and</u> swimming, and hunting where otherwise legally permitted											
<u>Membership club, including, but not limited to, social club, country club, tennis or similar sports club</u>	<u>SPS</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	<u>P</u>	
Performing arts center	NP	NP	NP	P	SP <u>P</u>	SP <u>P</u>	NP	P	P	NP <u>P</u>	
Museum	NP	NP	NP	P	SP <u>P</u>	SP <u>P</u>	SP <u>P</u>	P	P	P	
Establishment selling, servicing , and/or renting new and/or used automobiles, trucks, aircraft, boats , motorcycles, and household and camping trailers, and enclosed repair facilities accessory	NP	NP	NP	NP	NP <u>P</u>	NP	NP	NP	P	NP	

[illegible]

TABLE OF USE REGULATIONS											
PRINCIPAL USE	DISTRICT										
	R- AG	PR	R- LB	BV B	CH	CH A	LIB	UG B	BLI	PR M	
Town Hall or other municipal building	SPS <u>P</u>	NP	NP	P	P	P	NP	P	P	NP	
Public Works Department and garage	SPS <u>P</u>	NP	NP	SP <u>P</u>	SP <u>P</u>	SP <u>P</u>	NP	NP <u>P</u>	P	NP	
Police Station	SPS <u>P</u>	NP	NP	SP <u>P</u>	SP <u>P</u>	SP <u>P</u>	NP	P	P	NP	
Fire Station	SPS <u>P</u>	NP	NP	SP <u>P</u>	SP <u>P</u>	SP <u>P</u>	NP	P	P	NP	
Library	SPS <u>P</u>	NP	NP	P	SP <u>P</u>	SP <u>P</u>	P <u>NP</u>	P	P	NP	
Town outdoor recreation facility and any other outdoor non-commercial recreation use	SPS	NP	NP	P	SP <u>P</u>	NP <u>P</u>	NP	NP	P	P	
Cemetery, municipal or private	SPS	NP	NP	NP	NP	NP	NP	NP	SP <u>NP</u>	NP	
INDUSTRIAL USES											
<u>Seafood handling/distribution</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	
<u>Natural gas</u> distribution facilities	NP	NP	NP	NP	NP	NP	NP	NP	SP	NP	
Water and wastewater systems (<u>not Town Owned</u>)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
Open storage of raw materials, finished products, or construction equipment and structures for storing such equipment	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SP</u>	<u>NP</u>	

TABLE OF USE REGULATIONS											
PRINCIPAL USE	DISTRICT										
	R- AG	PR	R- LB	BV B	CH SP	CH A	LIB	UG B	BLI SP	PR M	
<u>Open storage of raw materials, finished products, or construction equipment and structures for storing such equipment as an ancillary use to the primary use</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u> <u>SP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u> <u>SP</u>	<u>P</u>	
WHOLESALE & TRANSPORTATION USES											
Open storage of raw materials, finished products, or construction equipment and structures for storing such equipment	NP	NP	NP	NP	SP	NP	NP	NP	SP	NP	
MARINE USES											
Seafood handling/distribution	NP	NP	NP	NP	NP	NP	NP	NP	NP	SP	
Retail/service kiosk automated teller machine as an ancillary use to the primary use—	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	
Sales by vending machines as an ancillary use to the primary use	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	
RESIDENTIAL USES											
Structures customarily accessory to	P	P	P	P	NP	NP	SP P	P	NP	P	

TABLE OF USE REGULATIONS											
PRINCIPAL USE	DISTRICT										
	R- AG	PR	R- LB	BV B	CH	CH A	LIB	UG B	BLI	PR M	
single family residences											
Multi-family dwellings, <u>five units or more</u>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	

2. In § 97-3.C.(1)(a) under District Specific Applicable Restrictions in the Agricultural-Residential District, after the words “for the purpose of” delete “: municipal uses ...professional office” and replace with the words “uses listed in § 97-3.M. Table of Use Regulations (97 Attachment 4) as allowed by Special Permit of the Board of Selectmen” so that the paragraph reads as follows, with deletion indicated by ~~strike through~~ and insertion indicated by *underlined italics*:

- (a) Uses by Special Permit: In appropriate cases and subject to appropriate conditions, safeguards and limitations on time or use, the Selectmen may grant an applicant a special permit to make use of the land or erect and maintain buildings or other structures thereon in accordance with the provisions of Chapter 40A, Section 9 of General Laws, if such use, buildings or other structures are in harmony with the general purpose and intent of this By-Law and with the provisions stipulated in § 97-11.C.(1) for the purpose of: ~~municipal uses; a library; a nursing or rest home; a hospital; a private club; or a doctor's, lawyer's, or similar professional office;~~ *uses listed in § 97-3.M. Table of Use Regulations (97 Attachment 4) as allowed by Special Permit of the Board of Selectmen,* provided the Selectmen find, after a Public Hearing of which due notice is given to any party in interest as defined in Section 11 of Chapter 40A of the General Laws, that the proposed use, building or structure is for the best interest of the Town, is not injurious or obnoxious to the neighboring properties, will satisfy a community need or convenience not otherwise being served, will not affect abutting and nearby properties by increasing traffic and on-street parking, and that nothing connected with the use, buildings or structure, such as machinery, vehicles, material, supplies, equipment and waste materials shall be stored between the street line and the front line of the structure or building, nor be visible from the street.

or act in relation thereto.

ARTICLE 27. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws, ARTICLE X – GENERAL REGULATIONS, § 97-10.D. Accessory Apartments as follows:

1. In § 97-10.D.(2)(a)04, insert the word “interior” before the words “floor area” in the first line so that this paragraph reads as follows, with insertion shown in underlined italics:
 - 04) The gross interior floor area of the primary dwelling (excluding unfinished attic and basement, garage, and porch) shall be at least sixteen hundred (1,600) square feet.
2. In § 97-10.D.(2)(a)05, insert the word “interior” before the words “floor area” in the first and third lines, the parenthetical phrase “(excluding unfinished attic and basement, garage, and porch)” after the word “apartment” in the first line, and the words “of gross interior floor area” after the words square feet in the fourth line, so that this paragraph reads as follows, with insertions shown in underlined italics:
 - 05) The gross interior floor area of the accessory apartment (excluding unfinished attic and basement, garage, and porch) shall not be greater than 35% of the gross interior floor area of the primary dwelling as defined in § 97-10.D.(2)(a)04) above or one thousand (1,000) square feet of gross interior floor area, whichever is less.
3. In § 97-10.D.(2)(c), delete § 97-10.D.(2)(c)01) in its entirety and replace with two new paragraphs as follows and renumber the subsequent paragraphs accordingly:
 - 01) The minimum lot size for accessory apartments in detached structures constructed after the date of adoption of this By-Law shall be 60,000 s.f.
 - 02) The minimum lot size for accessory apartments in detached structures in existence as of the date of adoption of this By-Law shall be 40,000 s.f.
4. Add a new § 97-10.D.(2)(d) as follows and renumber the subsequent paragraph accordingly:
 - (d) For detached accessory apartments, the ZBA as Special Permit Granting Authority may allow minor dimensional variations (up to 5%) from the minimum requirements for lot size and maximum requirements for gross interior square feet, provided that in the Board’s opinion the allowance of such variation is not contrary to the public interest and is consistent with the intent and purpose of this By-Law.

or act in relation thereto.

ARTICLE 28. To see if the Town will vote to amend the Town of Newbury Zoning By-Laws by adding provisions for Ground-Mounted Solar Photovoltaic Installations as follows:

1. In § 97-5. Special Permits General, insert a new § 97-5.F. Ground-Mounted Solar Photovoltaic Installations as follows:

F. Ground-Mounted Solar Photovoltaic Installations

- (1) Purpose. The purpose of this By-Law is to provide a permitting process for ground-mounted solar photovoltaic installations and standards with respect to the placement, design, construction, operation, monitoring, modification and removal of such installations. These standards are designed to: a) address public health, safety, and welfare concerns; b) minimize impacts on scenic, natural, agricultural, and historic resources; and c) provide adequate financial assurance for the eventual decommissioning of such installations if necessary.
- (2) Applicability. This section applies to all ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
 - (a) As-of-Right Siting: Solar photovoltaic installations that are ground-mounted and that occupy less than $\frac{1}{4}$ acre of land are allowed As-of-Right in all zoning districts upon issuance of a building permit by the Building Inspector.
 - (b) As-of-Right Siting with Site Plan Review: Solar photovoltaic installations that are ground-mounted and that occupy at least $\frac{1}{4}$ acre of land but less than two (2) acres of land are allowed As-of-Right subject to Site Plan Review by the Planning Board and upon issuance of a building permit by the Building Inspector.
 - (c) Special Permit Siting: Any ground-mounted solar photovoltaic installation occupying two (2) acres of land or more on one or more adjacent parcels either in common ownership or included in one solar photovoltaic project application, including parcels separated by a roadway, shall require a Special Permit in accordance with the Zoning By-Laws of the Town of Newbury prior to obtaining a building permit. For purposes of this By-Law, the Board of Selectmen is the Special Permit Granting Authority.

(3) Definitions.

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with local zoning ordinances or by-laws. Such projects cannot be prohibited, but can be reasonably regulated by the Building Inspector and the Planning Board.

Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted.

Net Metered Solar Photovoltaic Installation: A solar photovoltaic installation of 60kW or less for the primary purpose of providing electricity on-site that is interconnected with the electric grid, which allows the owner/operator to feed surplus electricity into the electric grid.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Kilowatts (DC).

Solar Photovoltaic Array: An arrangement of solar photovoltaic panels.

Solar Photovoltaic Installation: A device, structure, or structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, generation of electricity, or water heating. This includes appurtenant equipment for the collection, storage, and distribution of electricity to buildings or to the electric grid.

- (4) General Requirements. The following requirements are common to all ground-mounted solar photovoltaic installations permitted under this By-Law, unless otherwise noted:
- (a) Project Siting: The Massachusetts Department of Energy Resources (DOER) discourages applicants from selecting locations for ground-mounted solar photovoltaic installations which require significant tree cutting, due to the important water management, cooling, and climate benefits that trees provide. Applicants are therefore encouraged to site installations on vacant, disturbed land in a manner which will minimize tree cutting to the greatest extent reasonably possible.

- (b) Compliance with Laws, Ordinances and Regulations: The construction and operation of all ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including, but not limited to, all applicable safety, construction, electrical, communications, and environmental requirements, including stormwater management. All buildings and fixtures forming part of a ground-mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- (c) Building Permit and Fees: No ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit. The application for such a permit shall be accompanied by the required building permit fee.

(5) Installations Requiring Site Plan Review.

- (a) Applicability: Ground-mounted solar photovoltaic installations occupying at least $\frac{1}{4}$ acre of land but less than two (2) acres of land shall undergo Site Plan Review by the Planning Board prior to the issuance of a building permit for construction, installation or modification.
- (b) Procedure: An application for Site Plan Review of an applicable ground-mounted solar photovoltaic installation shall be submitted and will be reviewed in accordance with the provisions of § 97-9.A. Site Plan Review of Newbury's Zoning By-Law.
- (c) Submission Requirements: The applicant and any co-applicant(s) shall submit a site plan containing all data, detail, and supporting information listed below in Paragraph (6)(c)02)d) "Site Plan Contents" under Special Permit. The Planning Board may waive one or more of the Site Plan Contents requirements upon written request by the applicant and any co-applicant(s) if the small scale or simplicity of the project or other considerations warrant such a waiver. Such determination to waive one or more of the requirements shall be in the sole discretion of the Planning Board.
- (d) Pre-application Review: Prior to submission of an application for a Site Plan Review for a ground-mounted solar photovoltaic installation in accordance with Paragraph (5)(a) above, the applicant and any co-applicant(s) shall request a pre-application review with the Planning Board. The Planning Board shall invite

the Conservation Agent, the Health Agent, the Building Inspector, the Director of Public Works, the Fire Chief, the Police Chief, and representatives from the Board of Selectmen, the Open Space Committee, the Historical Commission, and the Agricultural Commission. The purpose of a pre-application review is to clarify and expedite the permitting process for the applicant and any co-applicant(s) and to minimize for the applicant and any co-applicant(s) the costs of engineering and other technical experts.

- (e) Decision: The Planning Board's final decision in writing shall consist of one of the following actions based on a simple majority vote:

- 01) Approval of the site plan based upon determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in the Zoning By-Laws;
- 02) Approval of the site plan subject to any conditions, modifications, or restrictions as required by the Board which will ensure that the project meets the standards set forth in the Zoning By-Laws.

- (6) Installations Requiring a Special Permit:

- (a) Applicability: Ground-mounted solar photovoltaic installations occupying two (2) or more acres of land shall require a Special Permit in accordance with the provisions of § 97-11.C. Special Permit Procedures – Public Hearing of Newbury's Zoning By-Law.

- (b) Special Permit General Requirements:

- 01) Ground-mounted solar photovoltaic installations that require a special permit must obtain such special permit prior to the issuance of a building permit, as provided in this section.
- 02) Special Permit Granting Authority: The Board of Selectmen is hereby established as the Special Permit Granting Authority (SPGA) for the issuance of special permits to construct and operate ground-mounted solar photovoltaic installations occupying two (2) or more acres of land. No ground-mounted solar photovoltaic installation of this size shall be erected, constructed, installed, or

modified as provided in this section without first obtaining a permit from the SPGA. The construction of a ground-mounted solar photovoltaic installation of two acres or more shall be permitted subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth herein. All such solar photovoltaic installations shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No special permit shall be granted unless the SPGA finds in writing that the criteria listed in Section (06)(d) below have been met.

- 03) Pre-Application Review: Prior to submission of an application for a Special Permit for a ground-mounted solar photovoltaic installation of two or more acres, the applicant and any co-applicant(s) shall request a pre-application review meeting with the SPGA. The review meeting shall include the Town Planner, the Conservation Agent, the Health Agent, the Building Inspector, the Director of Public Works, the Police Chief, the Fire Chief, and representatives from the Board of Selectmen, the Planning Board, the Open Space Committee, the Historical Commission, and the Agricultural Commission. The purpose of a pre-application review is to clarify and expedite the permitting process for the applicant and any co-applicant(s) and to minimize for the applicant and any co-applicant(s) the cost of engineering and other technical experts.

(c) Submission Requirements:

01) General:

- a) The application for a ground-mounted solar photovoltaic installation of two (2) acres or more shall be filed in accordance with the rules and regulations of the Board of Selectmen as the SPGA.
- b) Each application for a special permit shall be filed by the applicant and any co-applicant(s) with the Town Clerk pursuant to Section 9 of Chapter 40A of the Massachusetts General Laws.

- 02) Required Documents: The applicant and any co-applicant(s) shall provide the SPGA with nine (9) copies of the application. All plans and maps shall be prepared,

stamped, and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:

- a) Name, address, phone number, and original signature of the applicant and any co-applicant(s). Co-applicants may include the landowner of the subject property and the operator of the solar installation.
- b) If the applicant and any co-applicant(s) will be represented by an agent, the name, address, and telephone number of the agent, as well as a written document with original signature of the applicant and any co-applicant(s) authorizing the agent to represent them;
- c) Documentation of the legal right of the applicant and any co-applicant(s) to use the proposed site, including the requirements set forth in Paragraph (7) below.
- d) A site plan showing:
 - i. Property lines and physical features, including roads, for the project site;
 - ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures and any pruning of existing vegetation required to prevent shading;
 - iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
 - v. Documentation in the form of shop drawings or catalogue cuts of the major system components

to be used, including the PV panels, mounting system, and inverter;

- vi. Name, address, and contact information for proposed system installer;
 - vii. Name, address, and phone number of the project applicant, as well as all co-applicants or property owners, if any;
 - viii. An operation and maintenance plan (see also paragraph (8) below);
 - ix. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- e) Proof of liability insurance acceptable to the Town;
 - f) Description of financial surety that satisfies Section (14)(c) below.
 - g) A public outreach plan, including a project development timeline, which indicates how the project applicant and any co-applicant(s) will meet the required Special Permit notification procedures and otherwise inform abutters and the community.
 - h) Plans and documents as required by the Town's Stormwater Management and Illicit Discharge and Erosion Control By-Law and Rules and Regulations.

(d) Special Permit Review Criteria:

- 01) Open Space and Agricultural Impact: Consistent with the Town's open space preservation goals, the owner of the land on which a large-scale ground-mounted solar photovoltaic installation is proposed to be situated must submit to the SPGA a report on the open space impacts of the installation, including but not limited to:
 - a) A general description of the installation site, including proximate natural features, flora, fauna, wetlands, and waterways;

- b) Any trees or wildlife to be displaced by the installation;
- c) Any efforts to mitigate groundwater management issues caused by increase in impervious surface;
- d) The suitability of the installation location for agriculture, including information about soil grade and any history of agriculture uses on the site within ten (10) years prior to special permit or site plan review; and
- e) Any environmental remediation efforts that the owner or operator anticipates will be necessary for installation, maintenance, or removal of the installation.
- f) In determining whether to issue a special permit, the SPGA shall consider the Open Space and Agricultural Impact report and the corresponding impacts.
- g) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the ground-mounted solar photovoltaic installation or otherwise proscribed by applicable laws, regulations, and by-laws, including the Code of the Town of Newbury, Chapter 87, Stormwater Management and Illicit Discharge and Erosion Control. In determining whether to issue a special permit, the SPGA shall consider such impacts and efforts to mitigate them. The applicant and any co-applicant(s) may be required to replace up to 100% of any and all trees with a caliper six (6) inches or over that are removed for the project.
- h) Operation and Maintenance Plan: The applicant and any co-applicant(s) shall submit a plan for the operation and maintenance of ground-mounted solar photovoltaic installation as called for in paragraph (8) below.
- i) Site Condition Suitability: All appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Structures shall be screened from view by means of

vegetation, fencing, or physical topography to the extent reasonable and practical considering the characteristics of the individual site. In determining whether to issue a special permit, the SPGA shall consider the sufficiency of the architectural compatibility of the structures and efforts to screen the structures from view.

02) The SPGA may grant a Special Permit only upon finding that the proposed use meets the standards specified in in § 97-11.C. of Newbury's Zoning By-Law and the following general standards:

- a) The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area, or the public health, safety, and general welfare;
- b) The nature and intensity of the intended operations will not discourage the appropriate development and use of adjacent land and buildings nor impair the value thereof;
- c) All proposed traffic access ways shall be adequate (but not excessive) in number, adequate in width, grade, alignment and visibility, sufficiently separated from street intersections and places of public assembly, and shall meet similar safety considerations;
- d) Adequate safe and accessible off-street parking and loading spaces shall be provided to avoid parking in public streets of vehicles belonging to persons connected with or visiting the site, including, at a minimum, parking for three (3) trucks and two (2) automobiles;
- e) Adequate access to each structure for fire and emergency service equipment shall be provided; keys for access to all portions of the project shall be provided to the Fire Department and the Police Department.
- f) The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance;

- g) The entire project site shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood;
- h) The volume of cut and fill, the number of removed trees that are six (6) inches or more in caliper, the area of wetland vegetation displaced, soil erosion, and threat of air and water pollution shall be held to a minimum set by the SPGA after consultation with the Conservation Commission;
- i) Adequate provisions shall be provided for stormwater management and other utilities consistent with the functional requirements of the Newbury Stormwater Rules and Regulations, the Department of Environmental Protection, and the Massachusetts Stormwater Management Handbook (as revised);
- j) Obstruction of scenic views from publicly accessible locations shall be minimized;
- k) Glare from site lighting shall be minimized;
- l) Sound impacts from transformers, inverters, and other electrical equipment shall be mitigated with the use of enclosures, shielding, and placement of the sound-generating equipment on the site.
- m) Unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places, shall be minimized; and
- n) The proposed development of the site shall be in compliance with the provisions of Newbury's Zoning By-Law, including parking, signs, landscaping, environmental standards and other pertinent sections.

Final Action: A Special Permit shall be granted by the SPGA after it finds in writing that all conditions described in (6)(d)02) items a) through n) have been satisfied.

- (7) **Site Control:** The project applicant and any co-applicant(s) shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.
- (8) **Operation & Maintenance Plan:** The project applicant and any co-applicant(s) shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- (9) **Notification:** No ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Town that the owner or operator of said installation has notified the utility company that operates the electrical grid where the installation is to be located of his or her intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (10) **Dimension and Density Requirements.**

- (a) **Setbacks:**

- 01) For ground-mounted solar photovoltaic installations which occupy less than $\frac{1}{4}$ acre of land, setbacks shall be in accordance with the minimum setback requirements for the zoning district in which the installation is located.
 - 02) For ground-mounted solar photovoltaic installations occupying at least $\frac{1}{4}$ acre of land, but less than 10 acres, setbacks shall be at least 25 feet from all lot lines:
 - 03) For ground-mounted solar photovoltaic installations occupying 10 acres of land or more, setbacks shall be at least 50 feet from all lot lines.
- (b) **Height:** No ground-mounted solar photovoltaic installation or structure appurtenant thereto shall be more than 15 feet in height measured from the adjacent grade.
- (c) **Appurtenant Structures:** All appurtenant structures to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage

facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by means of vegetation, fencing, or physical topography to the greatest extent reasonable and/or joined or clustered to avoid adverse visual impacts.

(11) Design Standards:

- (a) Lighting: Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- (b) Signage: Signs on ground-mounted solar photovoltaic installations shall comply with the Town of Newbury's Sign By-Law. A sign consistent with Newbury's sign by-law shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- (c) Utility Connections: Reasonable efforts, as determined by the Building Inspector and, for installations of two (2) acres or more, the SPGA, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (d) Noise: Transformers, inverters, and other noise-producing electrical equipment shall be located on the site, shielded, and/or enclosed to minimize sound impacts at the property line and on sensitive receptors. All noise sources shall be in compliance with the Massachusetts Department of Environmental Protection's noise regulation (310 CMR 7.10). A noise source will be considered to be violating 310 CMR 7.10 if the source:
 - 01) Increases the broadband sound level by more than 10 dB(A) above ambient, or

- 02) Produces a “pure tone” condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria shall be measured both at the property line and at the nearest inhabited residence.

(12) Safety and Environmental Standards:

- (a) Emergency Services: The ground-mounted solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief and Police Chief. The owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator of the installation shall identify a responsible person for public inquiries throughout the life of the installation.
- (b) Safety Disconnect: The solar photovoltaic installation shall be designed to disconnect automatically from the electrical utility’s system in the event that the grid experiences a power failure.
- (c) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and by-laws.
- (d) Security Fencing: Black vinyl-coated chain link fencing a minimum of 8 feet high with lockable gates shall be installed around the perimeter of the installation to prevent access by unauthorized individuals. Keys shall be provided to Newbury’s Fire Chief and Police Chief.

(13) Monitoring and Maintenance:

- (a) Solar Photovoltaic Installation Conditions: The ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Police Chief, and Emergency Medical Services. The owner or operator shall be responsible for the

cost of maintaining the solar photovoltaic installation and any access road(s), except for any accepted public way.

- (b) **Modifications:** All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Building Inspector and, where appropriate, the SPGA.

(14) **Abandonment or Decommissioning:**

- (a) **Removal Requirements:** Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section (14)(b) of this By-Law shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - 01) Physical removal of all ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site;
 - 02) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
 - 03) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Inspector may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- (b) **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Building Inspector and, for installations of two (2) acres or more, the SPGA. If the owner or operator of the ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

(c) Financial Surety: To enable the Town, if necessary, to remove the installation and remediate the landscape, the following conditions shall apply:

- 01) Within thirty (30) days following the issuance of the Special Permit, or before construction of the ground-mounted solar photovoltaic installation begins or is planned to begin, whichever first occurs, the applicant and any co-applicants together, or the owner(s) of the ground-mounted solar photovoltaic installation to be constructed, as the case may be, shall provide a form of surety, either through escrow account, bond or otherwise, to cover the costs to the Town of such removal and remediation;
- 02) The surety shall be in the form and principal amount as determined to be reasonable by, and satisfactory to, the Town, but in no event will such principal amount exceed more than one hundred twenty-five percent (125 %) of the then-estimated costs of such removal and remediation;
- 03) The applicant and any co-applicant(s) together, or owners(s) as above so described, as the case may be, shall submit a fully inclusive estimate of such then-estimated costs, as prepared by a professional estimator reasonably acceptable to the Town;
- 04) The surety shall include a process for calculating the increased costs of such removal and remediation as a result of inflation, with inflation to be determined by reference to the United States Department of Labor Consumer Price Index;
- 05) The principal amount of the surety will be adjusted for inflation every five years for so long as the surety is in force and effect;
- 06) Upon subsequent conveyance of said ground-mounted solar photovoltaic installation, any subsequent owner(s) of the facility shall provide a replacement surety in a form and principal amount determined to be reasonable by, and satisfactory to, the Town calculated, based on a submitted fully inclusive estimate of such then-estimated costs of such removal and remediation, as prepared by a professional estimator reasonably acceptable to the Town, but in no event will such principal amount exceed more than one hundred twenty-five percent (125%) of the said

estimate of such then-estimated costs, all in accordance with, and subject to, the preceding terms and conditions;

07) Only one such surety will be required to be in force and effect at any time; and

08) No such surety will be required for municipal or state-owned facilities.

(15) Invalidity or Unenforceability: If any provision(s) of this By-Law is (are) determined by operation of law or a court of competent jurisdiction to be invalid or unenforceable, then the remaining provisions of this By-Law shall remain in full force and effect. If the Special Permit provisions of this By-Law are deemed invalid or unenforceable, then the Site Plan Review provisions contained herein shall apply to all proposed installations occupying one-quarter acre or more.

2. In § 97-9. Special Regulations, insert a new § 97-9.A.(2)(g) to read as follows:

(g) Construction of a ground-mounted solar photovoltaic installation occupying at least ¼ acre of land but less than two (2) acres of land.

or act in relation thereto.

ARTICLE 29. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for the enactment of a special law creating a new regional veterans' services district, including the Town of Merrimac and one or more of its neighboring communities, which may include Newburyport, Newbury, Salisbury, and/or Amesbury; provided however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition, 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,
SEVEN 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 6th DAY OF MAY, 2013.

SELECTMEN, 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:

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:

CONSTABLE: