

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCILMAN GEORGE, WHO MOVED ITS ADOPTION,
SECONDED BY COUNCILMAN DECKER

WHEREAS, the Town Board of the Town of Newstead previously adopted a lateral restriction policy which policy, as amended, was extended to include Water District No. 10 by resolution adopted on November 24, 2003; and

WHEREAS, under the lateral restriction policy only existing structures are to be allowed to connect to the water lines but that it is necessary as the water lines are extended within Water District No. 10 pursuant to Phase 1 A and 1 B to fix the date of what are deemed to be existing structures for purposes of the lateral restriction policy.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Town Board of the Town of Newstead does hereby determine that only structures that have been completed or for which building permits have been issued as of June 25, 2007 within that part of the Town of Newstead served by the water lines constructed under Phase 1 A and 1B of Water District No. 10 shall be allowed to connect to the water lines constructed pursuant to Phase 1 A and 1B of Water District No. 10.
2. Any new structures constructed after June 25, 2007 or for which building permits were issued after June 25, 2007 that seek to connect to the water lines constructed pursuant to Phase 1 A and 1 B will not be allowed to do so unless the Town Board determines that they are eligible for a hardship exemption under the hardship exemption policy of the Town of Newstead.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on June 25, 2007, the results of which were as follows:

SUPERVISOR CUMMINGS-	AYE
COUNCILMAN GEORGE-	AYE
COUNCILMAN FINGER-	AYE
COUNCILMAN DECKER-	AYE
COUNCILMAN ROONEY-	AYE

Lateral Restriction Hardship Exception Policy

THE FOLLOWING RESOLUTION WAS OFFERED BY
COUNCIL _____, WHO MOVED ITS ADOPTION,
SECONDED BY _____

WHEREAS, the Town of Newstead by resolution adopted on August 12, 2002, amended the Lateral Restriction Policy previously adopted on May 11, 1998, amended on August 24, 1998 and further amended on June 7, 1999, which policy applies to properties located in Water District No. 5, as extended; and

WHEREAS, the policy as adopted was intended to mitigate the tendency of waterlines to spur residential growth by restricting the right to connect structures to such waterlines if such structures were not in existence at the time that the waterline was installed, but also provided for the Town to provide for a hardship exception to such lateral restriction policy if an existing resident can show that such resident will suffer a significant hardship if such resident is not allowed to receive public water; and

WHEREAS, the Town Board has requested that the Town Engineers undertake to identify areas of the Town of Newstead wherein the water quality and/or quantity is such that public water must be provided as a matter of public health and safety; and

WHEREAS, the Town Engineers have developed a map identifying areas of the Town that have had significant water problems, which map has been placed on file in the Building Department of the Town; and

WHEREAS, the Town Board has also been advised that individuals with certain medical conditions may be negatively impacted by the presence of certain minerals and naturally occurring components of well water; and

WHEREAS, the Town of Newstead, since the date of the adoption of the last amendment to the lateral restriction policy, has adopted a Comprehensive Plan for the Town of Newstead, which plan sets forth a blueprint for future development of the Town of Newstead, which Comprehensive Plan must be taken into account by the Town of Newstead in the adoption of a hardship exception policy; and

WHEREAS, the Town Board has created a hardship application form which is on file in the Building Department of the Town for applicants to complete if they believe that they are entitled to a hardship exception to the lateral restriction policy.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF NEWSTEAD AS FOLLOWS:

1. That the Town of Newstead has identified the need for public water as a public health and safety issue for the residents of the Town of Newstead in those portions of the Town that

have either poor quality groundwater or suffer from groundwater shortages, seasonally or otherwise, or both poor quality and shortages of groundwater.

2. The Town of Newstead hereby adopts the map prepared by the Town Engineers and on file in the Town Building Department as the Official Water Quality Map of the Town of Newstead (the "Map"), and authorizes the Map to be continually updated by the Town Building Department upon receipt of additional information as to problem groundwater areas of the Town.
3. The Town of Newstead also adopts the hardship exception application form that has been prepared for the Town of Newstead as the Official Hardship Exception Application Form.
4. The Town of Newstead has determined that among the factors that will be considered in evaluating a request for a hardship exception to the lateral restriction policy are:
 - a. Quality of water including presence of potentially harmful components, including but not limited to the presence of (see list attached as Appendix A)
 - b. Whether the harmful components can be easily removed through a water treatment system.
 - c. The costs of treating water.
 - d. Limitations on the quantity of water and whether quantity can be improved by drilling deeper and the costs associated with such drilling deeper.
 - e. Health conditions of residents that are requesting hardship exception.
 - f. The location of the property and where such location fits with respect to the Comprehensive Plan adopted by the Town. Property located in areas designated for low density development will be viewed less favorably.
 - g. Other economic issues including requirements of lending institutions that public water be connected, water treatment costs, well drilling costs and other costs that may be identified by applicants.
 - h. Such other factors as may be raised by applicants in their request.
5. An applicant that wishes to make a request for a hardship application may obtain an application from the Town Building Department, which shall make available to the applicant the Map for such applicants review and provide such assistance as may be required for the applicant to understand the map and the application.
6. Upon receipt of the application, such application shall be reviewed by the Building Department to determine whether it is complete. If it is not complete, it shall be returned to the applicant for completion.
7. Upon receipt of a completed application, the application shall be forwarded to the Town Board for their review. The Town Board shall thereupon review the application and evaluate it in light of the various criteria that the Town Board has determined to be relevant and the Town Board shall issue its determination which determination shall set forth the decision and the various factors that the Town Board relied upon to make such decision. Such decision shall be rendered within 45 days of receipt of a completed

application.

8. An applicant that has been denied its request for a hardship exception, shall have the right to petition within 45 days of receipt of the decision of the Town Board to petition the Town Board for reconsideration of such request, which request may contain additional information that the applicant either failed to include in the application or did not set forth in sufficient detail. Upon receipt of a request for reconsideration, the Town Board shall render its decision within 45 days of receipt of such request for reconsideration.
9. An applicant that has been denied a hardship exception following a request for reconsideration, shall have the right to commence an Article 78 proceeding against the Town.
10. This resolution shall be effective immediately.

Appendix A *

	MCL	Unit
Total Coliform	Any positive samples	
E. Coli	Any positive samples	
Radon (Gross Alpha Activity)	15	pCi/L
Arsenic	0.05	mg/L
Cadmium	0.005	mg/L
Nitrate	10	mg/L
Sodium	20 ¹	mg/L
Sulfate	250	mg/L
Iron	0.3 ²	mg/L
Manganese	0.05 ²	mg/L
Aluminum	0.05 to 0.2	mg/L
Chloride	250	mg/L
Color	15	Color units
Copper	1.0	mg/L
Odor	3 threshold odor number	—
pH	6.5 – 8.5	—
Sulfate	250	mg/L
Total Dissolved Solids	500	mg/L
Zinc	5	mg/L
Chloride	250	mg/L

¹ Water containing more than 20 mg/L of sodium should not be used for drinking by people on severely restricted sodium diets.

² If iron and manganese are present, the total concentration of both should not exceed 0.5 mg/L.

* The items listed on this Appendix A are based upon what is currently tested for by New York State Health Department and shall change based upon any changes in New York State Health Department testing standards.