



Town of Newport Land Management Ordinance

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DRAFT: November 5, 2004



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CHAPTER 600: Zoning

ARTICLE I: GENERAL PROVISIONS

600-1. Purpose.

This is an ordinance classifying, regulating, and restricting the size of yards and other open spaces, the location, use, and extent of uses of buildings, structures, and land for trade, business, industry, residences, and other purposes; creating districts for said purposes and establishing the boundaries of those districts; providing enforcement measures, establishing a board of adjustment, and imposing penalties for violations of the ordinance so as to lessen congestion in the streets, secure safety from fire, panic, and other dangers; to provide adequate light and air for residents; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, vehicular parking areas, landscape buffer areas, and other land use requirements; to conserve the value of buildings and encourage the most appropriate use of land while promoting the health, safety, morals, and general welfare of the Town of Newport.

600-2. General intent.

1. This zoning ordinance establishes regulations for the use of land and structures, area of lots, types of buildings and structures permitted within such lots, the density of population, the provision of off street parking and similar accessory regulations or provisions which facilitate land utilization in the Town of Newport; and for such purposes as to divide the Town into land use districts and to provide for the administration, enforcement, and amendment of such provisions in accordance with the laws of the State of Delaware.
2. It is not intended that this zoning ordinance in any way impair or interfere with existing laws or regulations made by the Town of Newport, New Castle County, or the State of Delaware; provided that where the articles of this zoning ordinance require or permit more extensive facilities than do the aforementioned laws of regulation that the articles of this ordinance shall govern.

600-3. Applicability.

After the date of adoption of this ordinance, no building, structure, or premises in the Town of Newport shall be used or maintained for any purpose other than a use permitted by this ordinance, no building, structure, or premises shall be constructed, enlarged, altered, rebuilt, renovated, or maintained except in conformity with the area regulations, landscape buffer regulations, off street parking schedules, use requirements, and all other provisions of this ordinance for the land use district in which the building, structure, or premises is located.



600-4. Subdivision.

1. No tract or lot of land shall be divided, redivided, subdivided, or re-subdivided by recorded plot, separation of ownership or lease, into two (2) or more tracts, parcels or lots, nor shall any property be developed into condominiums except in strict accordance with all provisions of this ordinance.
2. No tract or lot of land shall be developed and no construction shall be undertaken thereon directed to the occupancy of such land or building thereof by more than two (2) families or businesses, professional, personal service establishments, or industrial units except in strict conformance with the provisions of this ordinance
3. Lots formed by the combination of adjacent registered parcels held in single ownership shall conform to the area regulations of this ordinance as applied to the entire parcel which is held in single ownership. However, reasonable care shall be taken to provide adequate off street parking facilities on the entire parcel so that in the event of a future subdivision no area of the parcel will be without open space.

600-5. Nonconforming uses of buildings, structures, premises.

1. Any use permitted an existing on any parcel at time of adoption of this ordinance shall continue to be permitted on said parcel under the regulations existing at the time of adoption of this Comprehensive Plan.
2. Said use shall run with the land and shall survive transfer of said parcel, provided that the use is maintained by successor owners and/or operators.
3. Any new use, including uses proposed after adoption of this Comprehensive Plan or any uses existing at the time of adoption of this Comprehensive Plan but abandoned thereafter, shall not be permitted to continue under existing regulations.
4. These recommendations may be modified as necessary as part of the public process required for their effectuation by ordinance.
5. All Special Uses shall be subject to special provisions as appropriate. Specific provisions shall be established during the public process required for effectuation by ordinance.
6. Any nonconforming use may be changed to a more restricted use and when so changed it shall not again be changed to a less restricted use.
7. No building or part of a building devoted to a nonconforming use shall be enlarged or altered unless such construction is in conformance with the provisions of this ordinance.



8. In any case where a land use district boundary line crosses a building which existed prior to the establishment of such a boundary, a use permitted in the less restricted of the two districts may be extended into that part of the building located in the more restricted district. This extension of a nonconforming use shall apply only during the life of the building and may not be applied to subsequent structures.
9. Where damage has occurred to buildings and property occupied by nonconforming uses, and where such damage has occurred through no fault of the owner, including phenomena of nature and action of governmental agency, the board of adjustment may approve a special exception allowing the continuance of the nonconforming use. The board may limit the reconstruction by requiring setback and yard modification, off street parking facilities, and other items on the lot and on adjacent lots held in single ownership which are affected by the rebuilding.
10. A nonconforming use of a building may be continued after total destruction of the building, by accident or act of God; provided that the restoration and resumption of work shall take place within twelve months (12) from the time of destruction.
11. Nothing in this zoning ordinance shall prevent the restoration of a wall or part of a building declared unsafe by a government agency.
12. Extensions of nonconforming buildings and uses either on the same lot or on a contiguous lot under the same ownership at the time may granted by the board of adjustment as special exceptions according to the following requirements:
 - A. The extension is for a use which is necessarily incidental to the existing use.
 - B. Such extension shall not encroach on any of the setback or yard requirements for the, district in which it is located.
 - C. The estimated cost of any extension involved does not exceed fifty percent (50%) of the assessed value of the existing building to which it is incident.
 - D. Such extension shall not have a floor area to exceed twenty-five percent (25%) of the floor area of the building to which it is incident.
 - E. It will not impair the value of the adjoining properties of adversely affect the character of the surrounding neighborhood.
 - F. Only one extension shall be granted by the board of adjustment during the life of the nonconforming use.

600-6. Abandonment.

A nonconforming use shall be considered as abandoned when a cessation of any use or activity occurs through the action or, failure to act on the part of the tenant or owner to reinstate such use within twelve (12) months from the day of the discontinuance, at which



time the nonconforming use shall revert to the prevailing land use of the land use district in which the site is located according to the Town of Newport Zoning Map.

600-7. Establishment of zones.

For the purposes of this ordinance, the Town of Newport is divided into the following land use zoning districts:

Lower Density Residential (R-1) District
Moderate Density Residential (R-2) District
High Density Residential (R-3) District
General Business (GB) District
Redevelopment Overlay
Professional Office (PO) District
General Industry (GI) District
Chemical (Chem) District
Conservation (Con) District

600-8. Zoning map.

The boundaries of all zone districts shall be shown on a map attached to and made a part of this ordinance and titled "Zoning Map of the Town of Newport". Said map and its explanations and references are hereby incorporated into and declared a part of this ordinance. Any changes, variances, alterations, rezonings, or other differences which are made to said Zoning Map shall be recorded, in writing, and up-to-date copies of the Zoning Map shall be included within this ordinance.

600-9. Zone boundaries.

1. Zone boundary lines are intended to follow the center line of streets, railroad rights of way, streams, and recorded property lines, except where indicated as otherwise by dimension or notation on the Zoning Map of the Town of Newport.
2. Where zone boundaries are not fixed by dimension or other notation and where they approximately follow property lines or other natural features and do not scale more than twenty-five (25) feet distant. therefrom, such property lines or natural features shall be deemed to be the location of the zone boundary.
3. In unsubdivided land, where the zone boundary divides a property and the location of such boundary is not fixed by dimension or other notation on the Zoning Map, then the location of such boundary shall be determined the use of a graphic scale by the Town of Newport Building Inspector.
4. Where a district boundary line divides a lot held in single and separate ownership at the effective date of this ordinance, the use regulations applicable to the less



restricted district may extend over the portion in the more restricted district if approval is obtained from the board of adjustment.

600-10. Preservation of natural features.

1. No structure shall be built within fifty (50) feet of a stream bed which carries water on average of six (6) months of the year, or on land which is subject to frequent overflow of a stream.
2. No persons, firm, or corporation shall strip, excavate, or otherwise remove topsoil for sale or other use other than in connection with the construction or alteration of a building on a premises and the excavation of material on the site.
3. Existing natural, features such as trees, brooks drainage channels, and views shall be retained. Whenever such features interfere with the proposed) a of a property, the Building Inspector or board' of adjustment may authorize removal or relocation; provided that there will be no detrimental impact on area property values, and where an alternative set of plans could not feasibly develop that construction without such action.

600-11. Regulations applicable to all land use zones.

1. No lot shall have erected upon it more than one (1) principle residential building. No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered to provide a yard or open space for any other building.
2. Every principle building shall be built upon a lot with frontage along a public street, unless relief has been granted by the Board of Adjustment.
3. At the intersection of two (2) or more streets, no hedge, fence, or wall (other than a single post or tree) which is higher than two (2) feet above curb level, nor any obstruction to vision shall be permitted in the triangular area formed by the intersecting street lines and a line joining each fifteen (15) feet distant from said intersection along the street lines. Public utility poles and their support devices shall be excluded from this provision.
4. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located. Corner lots shall provide the minimum front yard requirements unless a different distance is specified in the area regulations of the district in which located.
5. The required front yard areas shall be measured from the lot line with frontage on a street right of way shown on the Zoning Map.



6. All yards, open spaces, off street parking, and required landscaping shall be contained within the lot in which the use is located.
7. No front yard shall be used for open storage of boats, trailers, vehicles, or equipment except for passenger auto parking on improved driveways. All open space storage areas in other yard areas shall be suitably screened from view from a public street by solid fence or walls a maximum of six (6) feet in height, or with significant evergreen landscape barrier plantings with a mature height of six to ten (6-10) feet. Minimum fence height is four (4) feet.
8. Business establishments shall not place display goods or any coin-operated machines in any location which would create a public nuisance or infringe on any of the required yard areas, except as further detailed in this ordinance.
9. Detached accessory buildings shall be located to the rear of the building line of the primary building and shall be located at least five (5) feet from all side and five (5) feet from all rear yard lot lines. On corner lots they shall be one and a half times the required side yard of the land use district in which located, if the structure is located in the half of the rear yard nearest the street. Storage sheds with a total floor area of one hundred twenty (120) square feet or less shall be located at least two and one half (2.5) feet from all side and rear lot lines, provided they do not interfere with utilities or drainage. (Ordinance 435, 1993)
10. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the area requirements of proposed uses may be applied to the new lot held in single ownership, provided that the Building Inspector has determined the conformance of the planned use to the provisions of this ordinance.
11. This ordinance shall not apply to water, gas, telephone, or electric service utility distribution or collection lines. All facilities such as pumping stations, repeater stations, or electric substations which require a structure shall be subject to the provisions of this ordinance.
12. Off street parking facilities shall conform to the following:
 - A. Off street parking spaces shall be provided as further specified in this ordinance, and shall be furnished with necessary passageways and driveways. All parking areas, passageways, and driveways shall be surfaced with a bituminous or rigid pavement, and shall be adequately drained. Off street parking space may be used as required open space as provided in this ordinance. (Ord. 435, 1993)
 - B. None of the off street parking facilities required by this ordinance shall be required for nonconforming uses of buildings. When such nonconforming uses of buildings conform to the land use district in which located, the



- provisions of this ordinance shall apply, including enlargements of nonconforming uses.
- C. Off street parking space may be located within a required front yard area in a non-residential district. For the purpose of this statement, residential drives shall not be considered parking space.
 - D. All parking areas and passageways serving business and industrial uses shall be adequately illuminated during the hours between sunset and sunrise when the use is in operation or is open for business. Adequate shielding shall be provided to protect adjacent residential zones and public streets from the glare of illumination and headlights of autos contained within the parking area.
 - E. Off street parking areas located in business and industrial zones and which provide parking for fifteen (15) or more vehicles shall have significant evergreen landscape barrier plantings located in required side and rear yard areas when adjacent lots have residential uses. All off street parking areas for more than twenty-five (25) vehicles shall have evergreen landscape barriers within all side and rear yard setbacks and be located throughout the parking area.
- 13. The limitations on signs as set forth in this ordinance shall not apply to any sign or direction device erected by a local, State, or Federal agency.
 - 14. The limitations on signs as set forth in this ordinance shall not apply to parking lot markers, directional signs, entrance and exit markets, provided that such signs do not exceed two (2) square feet in area and provided that they do not contain any advertising for any commercial use.
 - 15. Fences may be erected, altered, or reconstructed to a height not to exceed six (6) feet when located in a side or rear yard area. No fence of any type shall be permitted in a front yard area. This shall not include decorative or landscape fences of less than eighteen (18) inches in height.
 - 16. No accessory building in a residential district shall be over one (1) story or seventeen (17) feet in height, or shall have a second floor used for sleeping or living quarters.
 - 17. A private swimming pool may be located in a residential district only in a rear yard; provided that it shall not be within six (6) feet of any side or rear property line and shall be entirely enclosed with a suitable safety fence of at least four (4) feet in height.
 - 18. Mobile dwelling units. Mobile dwelling units and mobile dwelling unit parks are prohibited in the Town of Newport. Residential mobile dwellings are permitted as temporary uses only in R-2 and R-3 districts subject to approval and conditions of the board of adjustment. Security, office, and storage mobile units are permitted as temporary uses only in GB and GI districts subject to approval and conditions



of the board of adjustment. Mobile units shall not include prefabricated or modular units designed only for permanent foundations.

19. When a lot in single and separate ownership extends through a block from street to street, the front yard provisions shall apply to each street frontage. This statement shall not apply to each streets, highways, alleys, or roads less than fifteen (15) feet wide.
20. Projections into required open space. Yards and open spaces shall be entirely free of buildings, structures, and parts thereof, except for the following:
 - A. Bay windows and balconies may not project more than three (3) feet into any required side or rear yard area.
 - B. Cornices, eaves, and awnings shall not project more than two (2) feet over any required yard or open space, except if approved by the building inspector for shading structures from sunlight.
 - C. An open fire balcony, fire escape, fire ladder or fire tower may not project into a required side or rear yard area more than four (4) feet.
 - D. An uncovered porch may not project into a required front yard more than eight (8) feet. Covered porches in residential districts constructed as accessory uses may not project more than ten (10) feet into a front yard and must be approved by the building inspector.
 - E. Covered or uncovered steps, stairways, ramps, or passageways leading to a basement in a residential district may not project more than ten (10) feet into a rear yard, more than four (4) feet in a side yard, and are prohibited in a front yard.
21. In the case of undeveloped, vacant, or open lots in residential districts no temporary storage, fences, recreation equipment, parking areas, sheds, garages, or other incidental or temporary uses shall be located forward of the front yard setback line for the district in which located:
22. No AM, FM, UHF-VHF, radio, television, citizens band, or short wave transmission or reception device of any type shall be located in a required front or side yard, shall be attached to the front fifty percent (50%) of a structure, or shall be mounted on the front fifty percent (50%) of a roof. This includes aerials, towers, satellite dishes, and wire signal devices.
23. Curb cut requirements. All curb cuts, parking spaces, parking area, drive openings, and on-grade openings shall conform with the following:

DISTRICT REQUIREMENTS

- R-1 One (1) curb cut with a maximum width of fifteen (15) feet per lot. Common lot drives shall be no wider than twenty-two (22) feet.



- R-2 One (1) curb cut with a maximum width of fifteen (15) feet per lot. Common lot driveways shall be no wider than twenty-two (22) feet.
- R-3 One curb cut with a maximum width of thirty-five (35) feet for each two hundred (200) feet of road frontage.
- GB One (1) thirty-eight (38) foot curb cut for each one hundred (100) feet of road frontage. Wider, more frequent, or full frontage depressed curbs may be approved by the board of adjustment when more access space is needed for parking or commercial purposes.
- PO One (1) twenty-five (25) foot curb cut for each one hundred (100) feet of road frontage, except that a twenty (20) foot curb cut may be provided where only one-way traffic is anticipated. Wider, more frequent, or full frontage depressed curbs may be approved by the board of adjustment when more access space is needed for parking or commercial purposes.
- GI One (1) fifty-five (55) foot curb cut for each one hundred (100) feet of road frontage, with a maximum of three (3) curb cuts per lot. Wider or more frequent curb cuts may be approved by the board of adjustment when more access is needed for parking or commercial purposes.
- Chem One (1) fifty-five (55) foot curb cut for each one hundred (100) feet of road frontage, with a maximum of three (3) curb cuts per lot. Wider or more frequent curb cuts may be approved by the board of adjustment when more access is needed for parking or commercial purposes.
- Cons One (1) thirty (30) foot curb cut for each one hundred (100) feet of road frontage, except that a twenty-five (25) foot curb cut may be provided where only one-way traffic is anticipated. Wider, more frequent, or full frontage depressed curbs may be approved by the board of adjustment when more access space is needed for parking or commercial purposes.

Curb cut design shall not interfere with the proper drainage of the lot to which access is being made or to other nearby lots. Curbcut construction shall be approved by the building inspector. No curbcut shall be closer than fifteen (15) feet to an intersection.

- 24. No refuse dump or junkyard shall be permitted in the Town of Newport.
- 25. No facility selling alcoholic beverages for public consumption is permitted within two hundred (200) feet of any church, library, school, nursing home, or lot zoned for residential homes. Measurements shall be made from the nearest lot point of the potential facility and any point on a lot line of the previously mentioned uses.
- 26. Prohibited Uses. Any use not specifically permitted in the land use zoning districts established within this ordinance is hereby specifically prohibited from those districts. The Commissioners of Newport have the right to review this zoning ordinance and remove, amend, or insert additional regulations or permitted or special exception uses in any zone within the Town of Newport. The Commissioners also have the right and power to specifically prohibit a land use from all zoning districts of the Town of Newport.



ARTICLE II: DEFINITIONS

600-12. Meanings.

For the purpose of this zoning ordinance, the following words and phrases shall have the meanings given to them by this article.

Words used in the present tense include the future, the singular number includes the plural, the word "building" includes the word "structure"; the word "occupied" includes the words "designed or intended to be occupied"; the word "used" includes the words "arranged, designed, or intended to be used".

Words not defined herein shall have the meanings ascribed to them in Webster's Dictionary.

ACCESSORY BUILDING. A detached or subordinate building, the use of which is incidental and subordinate to that of the main building on the same lot.

ACCESSORY USE. A use customarily incidental and subordinate to the principle use of the building or lot and located on the same premises with such a principle use.

ADULT BOOK STORE. An establishment having as a substantial or significant portion of its stock in trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT CENTER. An enclosed building used for presenting material and/or conduct distinguished or characterized by emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein. This includes peep shows, bars, cafes, and restaurants which feature topless and/or bottomless personnel.

ALTERATION. A change or rearrangement in the structural parts in the existing facilities, or an enlargement whether by extension of a side or by increasing in height or width or by movement from one location to another.

AMUSEMENT GAME MACHINE. A machine or device, whether mechanical, electrical, which may be operated by the public for the use as a game, entertainment or amusement, the object of which is to achieve a high or low score which demonstrates relative skill or competence or competitive advantage of one player or team over another. It shall include devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures or lines intended to be representative of real or fictitious games or activities.



AMUSEMENT GAME MACHINES COMPLEX. A group of more than two amusement game machines.

APARTMENT COMPLEX. Any dwelling with four (4) or more rental units.

AREA. The extent of surface contained within the boundaries of land, buildings, or signs.

AUTOMOBILE SELF SERVICE STATION. An establishment where motor fuel liquids are stored and dispensed into fuel tanks of motor vehicles by persons other than the service station attendant, and may include facilities available on the premises for the sale of other retail products.

AUTOMOBILE SERVICE STATION. An establishment providing servicing for automobiles and other motor vehicles where services and fuels are supplied by an attendant.

AVERAGE RESIDENTIAL DENSITY. The number of dwelling units per acre computed by dividing the number of proposed units by the number of acres in the proposed development. Land for school sites which is not dedicated to a developer may not be included in such calculations.

BASEMENT. A story not having more than one-half of its clear ceiling height below the average level of the adjoining ground.

BITUMINOUS PAVEMENT. A pavement constructed of hot-mix, hot-laid bituminous concrete base, binder and/or surface courses on a prepared base in accordance with the State of Delaware Standard Specifications for Road and Bridge Construction. (Ordinance 435, 1993).

BOARDING HOUSE. A dwelling unit with three (3) or less rental rooms.

BUILDING.

Detached: A building which has no common party walls.

Semi-detached: A building which has one (1) common party wall with an adjacent building.

Attached: A building which has two (2) common party walls with adjacent buildings.

BUILDING AREA. The area of the largest horizontal section of a structure, building, house, garage, or storage structure. Cornices, eaves, gutters, steps, balconies, and sidewalks are excluded from building area calculations unless, in the judgement of the building inspector, including one or more of those items would result in more orderly development.



BUILDING HEIGHT. The measurement of a building taken from the average level of adjacent ground to the uppermost or tallest portion or part of a roof, excluding radio or television aerials, but including chimneys, stovepipes, or other permanent rooftop items.

BUILDING MATERIALS CENTER. An establishment in which the majority of the storage and display area is devoted to retail and/or wholesale sales of building materials, supplies, lumber, millwork, framing, sheathing, paneling, roofing, insulation, sand, concrete, or other materials customarily used for construction.

CAMPER TRAILER. A folding structure mounted on wheels and designed for travel, recreation, or vacation use.

CAR WASH, AUTOMATIC. A building which contains facilities for washing and cleansing motor vehicles using production line including operations which employ hand labor.

CAR WASH, SELF SERVICE. A building which contains facilities for washing and cleansing motor vehicles using limited mechanical equipment and employing primarily hand labor.

CELLAR. A story having more than one-half of its clear ceiling height below the average level of the adjoining ground.

CERTIFICATE OF OCCUPANCY. A statement signed by the Town of Newport Building Inspector after a final inspection has been made setting forth that a building, structure, or use legally complies with this zoning ordinance and that the premises may be used for the purposes stated in the building permit application.

CHURCH. A building used for public worship by a given religious congregation excluding structures used for residential, educational, recreational, or other uses normally associated with religious organizations.

COMMON OPEN SPACE. A parcel of land or an area of water, or a combination of the two, within a site and intended for the use and enjoyment of residents. Such space may contain complimentary structures and 'improvements as are necessary and appropriate for the benefit and enjoyment of residents.

CONTIGUOUS. For the purposes of this zoning ordinance, lands are contiguous to each other if they abut one another with one (1) common property line or if they are separated by streets, right of ways, or power lines.

COURT. A yard which is bounded on two or more sides by the walls of a building. An inner court is entirely enclosed by walls and an outer court is enclosed except for an opening which is more than one half the width of a property line which fronts a street.



DAY CARE CENTER. A building which provides daytime care or instruction for three (3) or more children eleven years of age or under which operates on a regular basis.

DENSITY. The proportionate amount of land allocated for each primary land use category in the Town of Newport.

DEVELOPER The person, firm, or corporation which files a request for a planned development in the Town of Newport. All persons firms, or corporations acting jointly with the Developer for the purposes of this ordinance agree to abide by and be bound by all terms and conditions thereof.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings, structures, mobile homes, streets, sidewalks, driveways, paving, utilities, fill materials, grading, excavation, dredging, drilling, and the subdivision of land.

DISPLAY. Goods kept on premises for immediate inspection, sale, or distribution.

DRIVEWAY, NON-RESIDENTIAL. A paved area whose function is to provide ingress and egress to a off-street parking area or loading zone servicing a commercial or other non-residential use. (Ord. 438, 1994)

DRIVEWAY, RESIDENTIAL (MULTI-FAMILY). A paved area whose function is to provide ingress and egress to a off street parking area or loading zone servicing a single or group of multi-family dwelling(s). (Ord. 438, 1994)

DRIVEWAY, RESIDENTIAL (SINGLE FAMILY). A paved area, located on the lot of a single family home, whose function is to provide off street parking for private passenger vehicles (non-commercial vehicles) of the occupant(s) and guests. (Ord. 438, 1994)

DWELLING, SINGLE FAMILY. A detached building designed for and occupied by a single family, excluding mobile dwelling units.

DWELLING, SEMI DETACHED. A dwelling designed for and occupied by a single family which has one or more common walls.

DWELLING, MULTI FAMILY. A building arranged, intended, or designed to be occupied by three or more families living independently of each other.

DWELLING, ROW. A building consisting of a series of three or more one family sections having a common wall between each section.



EMPLOYEES. The greatest number of persons employed regularly in the building in question during any period of the year.

FAMILY. One or more individuals customarily and permanently living together as a single housekeeping unit and using certain rooms and housekeeping facilities in common.

FLOOD. A temporary inundation of normally dry land areas.

FLOOR AREA.

Residential: The sum of the gross horizontal area of the several floors of a building and its accessory structures, excluding open porches, garages, and driveways not used for residential purposes.

Commercial: The sum of the gross horizontal floor area of the several floors of a building and its accessory uses.

GARAGE, PRIVATE. A garage accessory to a principle building used for storage purposes only, and which no business, service, or industry connected directly or indirectly with motor vehicles is conducted.

GARAGE, PUBLIC. Any garage available to the public which is operated for gain, and which is used for storage, repair, or servicing of automobiles or other motor vehicles.

GARDEN APARTMENTS. A group of multifamily dwellings on a single lot designed for rental of the individual housekeeping units; having common open space and designed, in accordance with this ordinance to have a maximum amount of open space on the premises.

HEIGHT OF A STRUCTURE. The vertical distance measured in the case of flat roofs from the curb level to the highest point of the roof beams adjacent to the street wall, and in the case of pitched roofs from the curb level to the mean height level of the gable. Where no roof beams exist or there are structures wholly or partly above the roof the height shall be measured from the curb level to the level of the highest point of those structures.

HIGH RISE APARTMENTS. Any multifamily dwelling over three (3) stories in height designed or used for rental or condominium ownership or individual units.

HOME CENTER. A retail store in which the majority of the storage and display area is devoted to retail sales of small hardware type items but in which building materials constitute a substantial minority of the storage and display area.

HOME OCCUPATION. A use customarily carried on within a dwelling by the inhabitants thereof, which use is incidental and subordinate to the residential use of the property. Home occupations shall be interpreted to include the following:



barber and beauty shops, barber and beauty schools, tourist homes, convalescent homes, kennels, and other uses which are conducted as a primary or incidental commercial use within a residential structure.

HOSPITAL. An institution providing public health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service rooms, or staff offices which are an integral part of the facility.

HOTEL. A building having three (3) or more rental rooms without individual cooking facilities for transient guest.

IMPROVED OPEN SPACE. That portion of lot excluding area set aside or used for buildings, parking, loading berths, and streets devoted to recreational or other uses with appropriate recreational facilities, park furnishings, or landscape features.

IMPROVEMENT. Any type of structure, building, excavation, or paved section including driveways, curbs, and sidewalks.

JUNKYARD. Any area and/or structure used or intended to be used for the conducting and operating of a business of selling, buying, storing, or trading in used or discarded metal, glass, paper, wood, or any used or disabled fixtures, vehicles, or used equipment of any kind.

KENNEL. A structure or place used for the breeding and/or boarding of domestic animals.

KINDERGARTEN, PRESCHOOL, OR DAY NURSERY. A school which provides daytime care and instruction for three (3) or more children from one to six years of age and operates on a regular basis.

LANDOWNER. The holder of legal or beneficial title to all land of a lot located in the Town of Newport; the holder of an option thereon, a lessee of a term not less than ten years, and any person having enforceable proprietary interest in such land shall be deemed to be a landowner (s).

LANDSCAPE SCREEN. Any combination of living plant material, structure solid fences, walls, or earth beams with sufficient height above the finished grade so as to create a substantial visual barrier or to improve, enhance, or benefit the natural environment as further specified in this ordinance.

LOADING SPACE. Accommodation off the street for loading and unloading of trucks or other vehicles in the form of one or more berths located either within a building or on an open space on the same lot.



LOT. A parcel of land in single or common ownership and occupied or intended to be occupied by one principle building or use or by a group of principle buildings together with all accessory buildings, including such yards or open spaces as are arranged or designed to be used in connection with such buildings.

LOT AREA. The area of a lot taken at its perimeter including any portion within a public or private street right of way.

LOT, CORNER. Any lot which occupies the interior angle of the intersection of two street lines.

LOT COVERAGE. That portion of the lot area that is covered by buildings.

LOT DEPTH. The average depth measured in the mean direction of the side lot lines from the front street line to the rear lot line.

LOT WIDTH. The distance measured along the setback line between the side lot lines of any lot; in the case of corner lots, the side street right of way line shall be taken to be the side lot line for measurements of lot width and lot coverage.

MASSAGE PARLOR. An establishment offering massage, manipulation, rubbing, vibration, stroking, or tapping or the human body with the hand or an instrument, staffed by one or more persons who do not belong to any nationally recognized massage therapy association, or by persons who are not graduates of any recognized massage therapy training school.

MANUFACTURE. A function involving either the processing or production of materials, goods, or products.

MOBILE UNIT. Any structure of vehicular, portable design, built with an integrated chassis and axle(s) assembly, which is drawn by another vehicle to be moved from one site to another. This shall include security, office, and storage units used with or without permanent foundations. This shall not include recreational vehicles or travel trailers or similar types.

MOTEL. Overnight accommodations for automobile tourists in the form of attached rental units, each with separate entrances, toilet facilities, and off street parking space; or a group of cabins for the accommodation of individuals or families each with off street parking space. Offices for the renting and/or management of such accommodations and a restaurant may be included.

MOTOR VEHICLE SERVICE ESTABLISHMENT. A building or use which is designed or intended to be used for the storage, servicing, repair, maintenance, or cleaning of motor vehicles or other automotive equipment.



NONCONFORMING BUILDING. A building or parts thereof lawfully existing at the time of the enactment of this ordinance, or subsequent amendment thereof, which does not conform to the dimensional requirements of the land use district in which it is located.

NONCONFORMING USE. A use of land or use of a building existing at the time of the enactment of this ordinance which does not conform to the use requirements of the land use district in which it is located.

NURSING HOME. A facility providing nursing services on a regular basis and which admits the majority of the occupants upon the advice of a physician as ill or infirm persons requiring the services of a nurse and which provides medical services or supervision and maintains medical records for all physician and nursing services. Hospitals, care for the acutely ill, surgical services, or obstetrical services shall not be included in this definition.

OPEN AREA. The portion of a lot excluding area set aside or used for buildings, accessory structures, or streets. Land devoted to recreational purposes and including swimming pools, tennis courts, and other recreational purposes shall be included in this definition.

OPEN SPACE. Land which is not covered with an impermeable surface other than shuffleboard, tennis, and basketball court areas which is devoted to agriculture, parks, playgrounds, playing fields, golf courses, and other outdoor uses such as woods, lakes, ponds, rivers, or streams able to be used by the public for recreational uses.

OPEN STORAGE. Goods, equipment, or supplies held for safekeeping, display for eventual sale or distribution, or extended storage for any reason which is not entirely enclosed within buildings. T-structures, lean-to structures, or roofed over fenced in areas shall not be considered enclosed buildings.

PARKING LOT, COMMERCIAL. An area used for the storage, or parking of automobiles, not including mobile dwelling units, for any period of time and operated for gain.

PARKING SPACE. An accommodation for the parking of a motor vehicle on a lot used in conjunction with a particular business or private enterprise, or as an adjunct to a housing development or private residence, whether operated for gain or not, or whether cooperatively established or not. Such parking areas may consist of parking lots, private garages, or other structures that may be suitably surfaced facilities, multi-level facilities, or above or underground structures.

PAVED AREA. A portion of land paved with a suitable weatherproof surface for parking space, driveways, or streets. In the computation of such area that portion of a lot covered by buildings or structures shall be excluded.



PERSONAL SERVICE ESTABLISHMENT. Retail outlets or shops for barbers, beauticians, hairstylists, shoe repair, tailors, dry cleaners, and other similar non nuisance establishments.

PLANNED COMMERCIAL DEVELOPMENT. a planned unit development which contains only commercial, recreational, or institutional uses with accessory open spaces.

PLANNED UNIT DEVELOPMENT. An area of land, controlled by a land-owner, to be developed as a single entity for one or more uses, the plan for which does not correspond in lot size, or required open space to the regulations established in any one land use district under the provisions of this ordinance. Unit plans are to be approved by the board of adjustment.

PREFABRICATED. Any construction of material or assembled units completed prior to the erection, installation, or location in a building or structure.

PREFABRICATED BUILDING. Any completely assembled or erected building or structure which may include service equipment, structural members, bathroom and kitchen plumbing equipment, electrical systems, and heating or air conditioning units, that is designed to be transported only to a site and installed on a permanent foundation. This shall include modular homes, sheds, garages, modular office structures, and prefabricated mechanical or commercial service units.

PREFABRICATED UNIT. A built-up section forming an individual structural element of a building or structure such as, but not limited to, beams, girders, planks, struts, columns, trusses, or walls; the integrated parts of which are completed prior to incorporation into a finished or partially finished structure.

PREMISES. Any lot, area, or tract of land, whether used in connection with a building or not.

PRODUCTION. A function involved in the manufacture or creation of materials, goods, or products, in which they are physically changed during some process.

RENTAL. A procedure by which services and/or real property are temporarily transferred to another person for a specific time period for an exchange of agreed value.

RESIDENTIAL DENSITY. The number of dwelling units which are or may be developed on a site or lot after public access and required open spaces are provided.



RESTAURANT. Any establishment, however designated, at which food products are sold for consumption on the premises to patrons seated within an enclosed area or building.

RESTAURANT, WITH DRIVE IN OR FRANCHISED SIT DOWN SERVICE. A restaurant in which the majority of customers order and are served their food at a counter and then take it to a table or counter on the premises; or order and are served their food while remaining in their automobiles parked on the premises.

RETAIL. A commercial public procedure involving a sale to the general public as an ultimate consumer.

RIDING ACADEMY. Any structure or place where horses or ponies are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch, or similar establishment.

RIGID PAVEMENT. A pavement constructed of Portland Cement Concrete, with or without reinforcement as specified, constructed on a prepared foundation in accordance with State of Delaware Standard Specifications for Road and Bridge Construction. (Ordinance 435, 1993)

SCHOOL, PRIVATE. A duly organized school, other than a public school or a parochial school, giving regular instruction in subjects ordinarily taught in the public schools at least five days a week for eight or more months a year.

SETBACK. An area extending the full width of the lot between the street and the building setback line within which no building, structures, or parts thereof may be erected.

SETBACK LINE. A line extending between two side lot lines of a lot or parcel of land which is parallel to, and a stated distance from, a street or right of way line.

SHOPPING CENTER. More than one commercial retail or service establishment sharing common walls, sanitary sewer, and parking facilities.

SIGN. Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others. Sign does not include any flag, badge, or insignia of any public, charitable, or religious institution.

SIGN AREA. The area defined by the edge of the frame of a sign. Where there is no geometric edge of frame of the sign, the area shall be defined by a projected, enclosed, four sided (straight lines) geometric shape which most closely outlines said sign.



SINGLE OWNERSHIP. The proprietary interest of a single landowner over a lot or group of lots.

SITE PLAN. A plan of a lot or subdivision, on which is shown topography, location of all existing and proposed structures, existing and proposed buildings, roads, rights of way, lot boundaries, drainage facilities, all essential dimensions of parking areas, open spaces, curbs, curb cuts, landscape features, fencing, setbacks, signs, and any other information required by the Commissioners of Newport for the evaluation of a development proposal.

SPECIALTY RETAIL STORE. Sale of gifts, antiques, flowers, jewelry, newspapers, books, hobbies, stationery, sporting goods; tobacco, leather goods, musical instruments, photography supplies, excluding food preparation, adult bookstores, or any type of entertainment center.

SPECIAL USE PERMIT. A permit granted for the approval of the construction or development of a use or alteration of an existing use; granted after proper review, public hearings, and consent of the board of adjustment; such uses are deemed to be "special exceptions" by virtue of their characteristics and are permitted only in specific, individual instances.

STORE OR STOCK ROOM. A room attached to a sales area which is used primarily for restocking shelves or space in the sales area. Goods stored in this area are not sold directly to the public customer on a routine basis.

STORY, FIRST. The ground floor story of a building provided its floor level is not more than four (4) feet below the mean lot elevation; any basement or cellar that is used for permanent occupancy shall be deemed the first story.

STORY, HALF. A story under a sloping roof at the top of the building or structure, the floor of which is not more than three (3) feet below the wall plate.

STREET. A strip of land comprising the entire area within the right of way intended for possible use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The word street includes the terms road, thoroughfare, place, parkway, avenue, boulevard, expressway, highway, lane, throughway, square, alley, or other areas within a designated right of way.

STREET LINE. The dividing line between a lot and a street right of way.

STREET, PRIVATE. Any street right of way not dedicated to public use.

STREET, PUBLIC. Any street right of way dedicated to public use and which is maintained by a governmental agency with jurisdiction over such highways.



STREET RIGHT OF WAY. An area set aside or used as a means of ingress, egress, or approach. No parts of private group parking areas, nor any driveways leading to such are to be considered as street right of ways.

STRUCTURE. Anything constructed or erected, the use of which requires location on or in the ground; an attachment to something having location on or in the ground.

STRUCTURAL ALTERATION. Any change in the supporting members of a building such as the walls, columns, beams, girders, floor joists, ceiling beams, joists, roof rafters, stairways, plumbing apparatus and equipment, or significant addition or alteration to the central electrical system involving new equipment or electrical components for the structure.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, improvement, or alteration of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of that structure:

1. before the improvement or repair is started;
2. any alteration of a structure listed on the National Register of Historic Places or a similar list of state or local historical significance.

Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of that structure. The term does not include:

1. improvement projects required to comply with existing Federal, State, or local health, sanitation, or safety code regulations to assure safety of living or working quarters;
2. any alteration of a structure listed on the National Register of Historic Places or a similar list of State or local historical significance.

SWIMMING POOL, COMMERCIAL. A swimming pool and the apparatus and equipment pertaining to the swimming pool, operated for profit, open to the public upon payment of any type of fee.

SWIMMING POOL, PRIVATE. A swimming pool and the apparatus and equipment pertaining to the swimming pool maintained by an individual for the sole use of his/her household and guests without charge for admission and not for the purpose of profit or in connection with any business operated for profit; such pools must be located on a lot as an accessory use to a residence.

SWIMMING POOL, PUBLIC. A swimming, pool and the apparatus and equipment pertaining to the pool maintained and operated by a unit of government for the general public, whether or not an admission fee of any type is charged.



TELEPHONE OFFICE. A building and its equipment erected and used for the purpose of facilitating transmission and exchange of telephone or radio-telephone messages between two points; other business activity of a telephone company.

TOURIST HOME. A dwelling having three (3) or fewer rental rooms for transient guests, without cooking facilities in each unit.

TOWN HOUSE. A building designed, renovated, and/or occupied exclusively as a residence for one family and one of a group of two or more attached dwellings, placed side by side, separated by a common party wall (s), each containing one or more stories, and each having separate front, rear, or side entrances from the outside.

TRAILER CAMP. A lot or premises used for occupancy by two (2) or more trailers or any other vehicles used for the temporary living or sleeping purposes; this includes premises used for the rental or sale or storage of such vehicles.

TRAVEL TRAILER. A vehicular, portable structure built on a chassis and axle assembly and designed to be used for temporary occupancy for travel, recreation, or vacation use. Travel trailer shall not include those in excess of twenty five (25) feet in length.

USE. The specific purpose for which land or a building is designed, arranged, intended, constructed, or for which it is or may be occupied and maintained by a person or group of persons.

USED CAR LOT. A suitably improved area or parcel used for the storage and display of used automobiles advertised and available for sale, and operated for profit or gain.

UTILITY. Sanitary sewer service, telephone and telegraph equipment, cable communication equipment, sanitary water service material, railroad right of way, and other similar public service equipment whether or not such is operated for profit or by a governmental agency.

VARIANCE. A special relief granted by the board of adjustment in unique and individual cases of practical difficulties or unnecessary hardship resulting from a literal application of this zoning ordinance.

WAREHOUSE. Any structure or room, attached or unattached to a retail or wholesale sales area, used for the storage of merchandise or commodities, from which said merchandise are eventually sold to customers.

YARD. An unoccupied space, including landscape improvements, open to the sky on the same registered lot with a building or structure.



YARD, FRONT. A yard extending the full width of the lot between the front street line and the parts of the principle building erected thereon setting back from and nearest which street line exclusive of overhanging eaves, gutters, cornices, or steps.

YARD, REAR. A yard across the full width of the lot extending from the rear lot line to the rear of the principle building line, excluding overhanging eaves, cornices, gutters, or steps. In the case of corner lots, the rear yard line shall not extend beyond the building setback line on the side street.

YARD, SIDE. A yard between the building and the adjacent side line of the lot and extending from the front yard to the rear yard, exclusive of overhanging eaves, gutters, steps, and cornices.

ZONING PERMIT. A document issued by the Town Manager or the Building Inspector which certifies that the purpose for which a building or land is to be used is in conformity with the permitted uses and all requirements of this zoning ordinance for the land use district in which it is located or is to be located. (Ordinance 435, 1993).





ARTICLE III: RESIDENTIAL (R-1) DISTRICT

600-13. Permitted uses.

1. Single family detached homes.
2. Private garages, tool sheds and swimming pools as an accessory use to a home.
3. Taking of non transient boarders or roomers in a single family dwelling by an owner-resident on the premises, provided there is no display or advertising on the premises in connection with such use and provided there are not more than two (2) boarders or roomers in any single family dwelling.
4. Churches or other places of worship, and parish home.
5. Park, playground, and athletic field.
6. Surface parking to support any Permitted Use.
7. Public mass transit (bus) stops for loading and unloading passengers.

600-14. Special uses.

1. Police and fire stations.
2. Recreation building and community center, including swimming pool, operated on a noncommercial basis for recreational purposes.
3. Professional office in a residential dwelling permitted subject to special provisions.
4. Customary home occupations subject to special provisions.
5. Day care centers, kindergartens, preschool, day nursery schools, and orphanages subject to special provisions.

600-15. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of five thousand (5,000) square feet.
2. Width. Lots shall have a minimum width of fifty (50) feet.
3. Length. Lots shall have a minimum length of one hundred (100) feet.



4. Height. No structure shall exceed thirty-five (35) feet in height, exclusive of cornices or overhanging eaves.
5. Occupied area. Not more than thirty (30) percent of the lot area may be occupied by buildings exclusive of a private garage or other accessory building which may in addition occupy thirty (30) percent of a rear yard area.
6. Front Yard. Minimum front yard depth is twenty (20) feet.
7. Side yard. There shall be two (2) side yards which shall have an aggregate width of not less than twenty (20) feet, neither of which shall be less than ten (10) feet.
8. Rear yard. Minimum rear yard depth is thirty (30) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-16. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Residential R- I District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks, rear yards, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-17. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including removal, replacement, alteration, or additional construction of walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects requiring more than fifty (50) feet of wiring or two (2) or more electrical outlets).



2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance specifications.

600-18. Site plan modification.

The Town Administrator, Building Inspector, Board of Adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off-street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.





ARTICLE IV: MODERATE DENSITY RESIDENTIAL (R-2) DISTRICT

600-19. Permitted uses.

1. Unless otherwise restricted by requirements of this R-2 District, any use permitted in a Residential (R-1) District.
2. Single family semi-detached (side-by-side duplex) dwelling.
3. Single family (attached) dwellings such as town houses and row houses provided that:
 - A. The maximum number of dwelling units per building does not exceed 3 and there is 1 building per lot.
 - B. At least 40% of the total land area to be developed shall be devoted to open space.

600-20. Special uses.

1. Rooming houses, boarding homes, transient rooms, excluding those uses with more than 8 rental units. A non-illuminated window or wall mounted building sign not more than 2 s.f. in area may accompany such use.
2. Nursing homes, rest homes or centers for the aged; provided that no more than 20 residents or patients are accommodated at any one time, and further provide that adequate parking facilities are designated for employees, residents and guests. Landscaped buffer zones shall be required.
3. Social club, fraternal, social service, union, and civic organization building provided that:
 - A. Buildings do not exceed 1 story or 17 feet in height.
 - B. At least 50% of the total land area to be develop[ed] shall be devoted to open space.
4. Office of public agencies
5. Undertaker, mortician, funeral home.

600-21. Area regulations.

1. Minimum area requirements.. There shall be a minimum lot area requirement of three thousand four hundred (3,400) square feet.
2. Width. Lots shall have a minimum width of forty (40) feet.



3. Length. Lots shall have a minimum depth of eighty-five (85) feet.
4. Height. No structure shall exceed thirty-five (35) feet in height, exclusive of cornices or overhanging eaves.
5. Occupied area. Not more than forty (40) percent of the lot area may be occupied by buildings exclusive of a private garage or other accessory building which may in addition occupy twenty (20) percent of the rear yard area.
6. Front yard. Minimum front yard depth is fifteen (15) feet.
7. Side yard. There shall be two (2) side yards which have a combined width of not less than ten (10) feet and neither of which shall have a width of less than five (5) feet; provided that in the case of semidetached dwellings there shall be only one (1) side yard which shall have a width of at least eight (8) feet. No side yard is required for completely attached dwellings.
8. Rear yard. Minimum rear yard depth is fifteen (15) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-22. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Residential R-2 District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks, rear yards, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-23. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration, or additional construction of exterior or interior walls,



ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects requiring more than fifty (50) feet of wiring or two (2) or more electrical outlets).

2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-24. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off-street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.



ARTICLE V: HIGH DENSITY RESIDENTIAL (R-3) DISTRICT

600-25. Permitted uses.

1. Garden apartments (as defined).
2. Apartment complexes (as defined).
3. Single family attached dwellings arranged as town houses and row houses provided that:
 - A. The maximum number of dwelling units per group does not exceed 5.
 - B. At least 40% of the total land area to be developed shall be devoted to open space.
4. Park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreational purposes.
5. Public mass transit (bus) stops for loading and unloading passengers.
6. Surface parking to support any Permitted Use.

600-26. Special uses.

1. Utility transmission and distribution lines.

600-27. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of forty-three thousand five hundred sixty (43,560) square feet.
2. Width. Lots shall have a minimum width of one hundred seventy-five (175) feet.
3. Length. Lots shall have a minimum length of two hundred fifty (250) feet.
4. Height. No structure shall exceed fifty (50) feet in height, exclusive of cornices or overhanging eaves.
5. Occupied area. Not more than forty (40) percent of the lot area may be occupied by any structure.
6. Setback. The lot development shall have at least fifteen feet of setback along all property lines.



7. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-28. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Residential R-3 District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area Requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks, rear yards, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and drainage plan for the intended improvements.
9. Required off-street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-29. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration, or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects requiring more than fifty (50) feet of wiring or two (2) or more electrical outlets).
2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-30. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information



concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.





ARTICLE VI: GENERAL BUSINESS (GB) DISTRICT

600-31. Permitted uses.

1. Social clubs, fraternal organizations, social service groups, facilities thereof.
2. Offices for professional services such as professional medical services, architects, accountants, attorneys, professional engineers, real estate sales and appraisal, tax preparation or similar non nuisance professional services businesses.
3. Limited commercial laboratories including medical, dental, clinical, chemical, engineering, photographic and pharmaceutical, not involving noxious odors or danger from fire or explosion.
4. Personal service establishments such as shoe repair, beauty shops, barbers, tailors, dressmakers, milliners, consultants, dry cleaners, locksmiths, teaching or tutoring businesses, health and fitness clubs, optometrists contract photographers and other similar non nuisance businesses.
5. Financial institutions, banks, loan offices.
6. Offices for indoor and/or off-site repair and servicing of any articles permitted for sale in this district.
7. Retail and specialty stores such as gift stores, antique shops, flower arrangers, jewelry, newsstand, bookstores, hobby shops, art supply, stationary, clothing stores, radio, television, and appliance dealers, hardware stores, variety shops, drug and beverage stores, liquor stores, grocery stores, delicatessens, convenience stores; buildings for the display of sample merchandise.
8. Indoor storage facilities as accessory uses are permitted subject to area, parking, and landscape zone provisions.
9. Public and privately operated off street parking lot, not to include outdoor overnight parking for trucks, busses, trailers, campers, mobile homes, or temporary outdoor storage of any vehicle.
10. Public mass transit (bus) stops for loading and unloading passengers.
11. Police and fire stations.
12. Governmental offices and offices of public agencies.
13. Public and private elementary, junior, and senior high schools.



14. Parks, playground, athletic fields, and commercial or noncommercial community center operated for recreational use, including public and commercial swimming clubs.
15. Printing shops, photocopying businesses, blueprinting.
16. Restaurants, taverns, bakeries, confectioners, candy makers, gourmet shops, convenience stores, luncheonettes, meat sales, drive in restaurants, franchised sit down or fast food service.
17. Post office.
18. Petroleum product storage facilities as accessory uses to uses permitted in this district. Such facilities are subject to setback and area regulations and applicable fire codes.
19. Gunsmiths, lock sales and repair.
20. Engraving businesses.
21. Exterminator businesses.
22. Home center, excluding open storage of materials for sale.
23. Indoor theater.
24. Any use involving 3 or less coin-operated washing, drying, vending, or arcade machines for candy, soft drinks, cigarettes, or similar items when machines are located in an enclosed building.
25. Business offices of contractors, caterers, cleaners, decorators, upholsters, pest exterminators, non-retail sales businesses, or other similar non nuisance business offices; provided that no open storage of materials for sale or use by those businesses are permitted.
26. Retail feed and fertilizer sales, excluding those with on-site production facilities, provided that all operations are conducted indoors.
27. Surface parking to support any Permitted Use.

600-32. Special uses.

1. Day care centers, kindergartens, preschool, day nursery schools, and orphanages subject to special provisions.
2. Utility transmission and distribution lines.



3. Water tower, reservoir, storage tank for water, pumping station.
4. Any use involving 4 or more coin-operated washing, drying, vending, or arcade machines for candy, soft drinks, cigarettes, or similar items when machines are located in an enclosed building.
5. Any use involving the outdoor location of 1 or more coin-operated washing, drying, vending, or arcade machines.
6. Automobile service station, automobile self-service station, auto repair shop, paint shop and body shop subject to special provisions.
7. Automatic and self serve car washes subject to special provisions.
8. Security, office, or storage trailer as a temporary use subject to the conditions of the board of adjustment.
9. All permitted business uses which are located within 300 feet (in all directions) and including across highways, buffer areas, railroad right-of-ways and other man-made and natural buffer areas, which business uses have hours of operation (whether normal or special) before 6:00 a.m. and after 7:00 p.m. and at any time on weekends and holidays and all businesses within the 300 foot buffer area (as defined above) that operate trucks, machinery, equipment or have other activities which create noise, dust, fumes, excessive light, smells or have any other adverse impact upon the adjoining residential district at any time. (Ordinance 452)

600-33. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to ten (6-10) feet, shall be erected in the setback area along all property lines separating a use first permitted in a commercial, business, or industrial district from any lot zoned or used for residential use. Such landscape screens shall be placed on the commercial, business, or industrial lots in such a manner as to not project into the property line of the residential use.

600-34. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the General Business (GB) District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.



3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks. rear yard, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-35. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of five thousand (5,000) square feet.
2. Width. Lots shall have a minimum width of fifty (50) feet.
3. Length. Lots shall have a minimum length of one hundred (100) feet.
4. Height. No structure shall exceed thirty-five (35) feet in height.
5. Occupied Area. Not more than sixty (60) percent of the lot area may be occupied by a primary use. Accessory buildings may occupy an additional twenty (20) percent of the rear yard area if such space is available after required open spaces have been provided.
6. Front yard. Minimum front yard depth is twenty (20) feet.
7. Side yard. There shall be two side yards which shall have a combined width of not less than ten (10) feet, neither of which shall be less than five (5) feet.
8. Rear yard. There shall be a rear yard the minimum depth of which shall be ten (10) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-36. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets).



2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirements for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-37. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.





ARTICLE VII: REDEVELOPMENT OVERLAY DISTRICT

600-38. Permitted uses.

1. Library, museum or art gallery.
2. Restaurants, taverns, bakeries, confectioners, candy makers, gourmet shops, convenience stores, luncheonettes, meat sales, drive in restaurants, franchised sit down or fast food service establishments.
3. Undertaker, mortician, funeral home.
4. Churches or other places of worship and Sunday school building.
5. Public and private elementary, junior, and senior high schools.
6. Park, playground and athletic field, recreation building, and community center operated on a noncommercial basis for recreational purposes.
7. Swimming pools, both public and private, subject to applicable area regulations.
8. Surface or structured parking to support any Permitted Use.
9. Governmental offices and offices of public agencies.
10. Offices for professional services such as professional medical services, architects, accountants, attorneys, professional engineers, real estate sales and appraisal, tax preparation or similar non nuisance professional services businesses.
11. Offices for administrative services such as advertising agencies, collection agencies, employment agencies, computer services, consultants, insurance adjusters, telephone answering services, video film companies or similar non nuisance professional services businesses.
12. Studios for artists, designers, photographers, musicians, sculptors.
13. Financial institutions, banks, loan offices.
14. Personal service establishments such as beauty shops, barbers, health and fitness clubs, tailors and dressmakers, milliners, shoe repair, dry cleaners, locksmiths, contract photographers and retail photo developers or other similar non nuisance personal service businesses.
15. Printing, photocopying businesses, blueprinting.



16. Retail and specialty stores such as gift stores, antique shops, flower arrangers, jewelry, newsstand, bookstores, hobby shops, art supply, stationary, clothing stores, radio, television, and appliance dealers, hardware stores, variety shops, drug and beverage stores, liquor stores, grocery stores, delicatessens, convenience stores; buildings for the display of sample merchandise.
17. Public and privately operated off street parking lots, not to include outdoor overnight parking for trucks, busses, trailers, campers, mobile homes or temporary outdoor storage of any vehicle.
18. Post office.
19. Indoor movie or other theater.
20. Residential above ground floor Permitted Use.
21. Automobile repair, including automotive machine shop.
22. Woodworking, sign-making and sheet metal fabrication operations (light manufacturing).

600-39. Special uses.

1. Any use involving 4 or more coin-operated washing, drying, vending, or arcade machines for candy, soft drinks, cigarettes, or similar items when machines are located in an enclosed building.
2. Any use involving the outdoor location of 1 or more coin-operated washing, drying, vending, or arcade machines.
3. Utility transmission and distribution lines.
4. Tourist centers and hotels and motels.
5. Social club, fraternal, social service, union or civic organization building provided:
 - A. Buildings do not exceed 1 story or 17 feet in height.
 - B. At least 50% of the total land area to be developed shall be devoted to open space.
 - C. All parking requirements are satisfied.
6. Any use involving 3 or less coin-operated washing, drying, vending, or arcade machines for candy, soft drinks, cigarettes, or similar items when machines are located in an enclosed building.



7. Public mass transit (bus) stops for loading and unloading passengers.
8. Automobile paint shop and body shop.

600-40. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to ten (6-10) feet, shall be erected in the setback area along all property lines separating a use first permitted in a commercial, business, or industrial district from any lot zoned or used for residential use. Such landscape screens shall be placed on the commercial, business, or industrial lots in such a manner as to not project into the property line of the residential use.

600-41. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Redevelopment Overlay District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks. rear yard, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-42. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of five thousand (5,000) square feet.
2. Width. Lots shall have a minimum width of twenty-five (25) feet.
3. Length. Lots shall have a minimum length of sixty (60) feet.
4. Height. No structure shall exceed thirty-five (35) feet in height.
5. Occupied Area. Not more than eighty-five (85) percent of the lot area may be occupied in total by primary and accessory structures.



6. Front yard. Maximum front yard depth is fifteen (15) feet.
7. Rear yard. There shall be a rear yard the minimum depth of which shall be ten (10) feet.
8. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-43. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets).
2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirements for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-44. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.



ARTICLE VIII: PROFESSIONAL OFFICE (PO) DISTRICT

600-45. Permitted uses.

1. Offices for administrative services such as advertising agencies, collection agencies, employment agencies, computer services, consultants, insurance adjusters, telephone answering services, video film companies or similar non nuisance professional services businesses.
2. Offices for professional services such as professional medical services, architects, accountants, attorneys, professional engineers, real estate sales and appraisal, tax preparation or similar non nuisance professional services businesses.
3. Financial institutions, banks, loan offices.
4. Public mass transit (bus) stops for loading and unloading passengers.
5. Police and fire stations.
6. Governmental offices and offices of public agencies.
7. Post office.
8. Surface parking to support any Permitted Use.

600-46. Special uses.

1. Utility transmission and distribution lines.
2. Water tower, reservoir, storage tank for water, pumping station.

600-47. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to ten (6-10) feet, shall be erected in the setback area along all property lines separating a use first permitted in a commercial, business, or industrial district from any lot zoned or used for residential use. Such landscape screens shall be placed on the commercial, business, or industrial lots in such a manner as to not project into the property line of the residential use.

600-48. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Professional Office (PO) District shall be required to submit



a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width.
5. Height of existing and proposed structures.
6. Distances of all setbacks. rear yard, side yards.
7. Distances between all buildings, access drives, and streets.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-49. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of five thousand (5,000) square feet.
2. Width. Lots shall have a minimum width of fifty (50) feet.
3. Length. Lots shall have a minimum length of one hundred (100) feet.
4. Height. No structure shall exceed thirty-five (35) feet in height.
5. Occupied Area. Not more than forty (40) percent of the lot area may be occupied by a primary use. Accessory buildings may occupy an additional twenty (20) percent of the rear yard area if such space is available after required open spaces have been provided.
6. Front yard. Minimum front yard depth is twenty (20) feet.
7. Side yard. There shall be two side yards which shall have a combined width of not less than ten (10) feet, neither of which shall be less than five (5) feet.
8. Rear yard. There shall be a rear yard the minimum depth of which shall be twenty-five (25) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-50. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal,



replacement, alteration or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets.

2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirements for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-51. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.



ARTICLE IX: GENERAL INDUSTRY (GI) DISTRICT

600-52. Permitted uses.

1. Commercial dry cleaning business.
2. Wholesale oil storage facilities, including pipelines for oil transport and accessory structures provided that such storage does not exceed 10,000 gallons.
3. Petroleum product storage facilities as accessory uses to uses permitted in this district. Such facilities are subject to setback and area regulations and applicable fire codes.
4. Railroads and rail yards; facilities for repair of rail machinery and equipment.
5. Public transportation facilities including public mass transit (bus) stops for loading and unloading passengers as well as depots, for loading and unloading of freight. Stations, garages, storage areas, buildings for repair and maintenance of public transportation and equipment.
6. Accessory retail sales areas provided that adequate off street parking facilities exist.
7. Warehouse sales provided that not more than 1 sale of 2 days in length is conducted in a 5 month period.
8. Limited commercial laboratories including medical, dental, clinical, chemical, engineering, photographic and pharmaceutical; academic research and testing laboratories; accessory uses of laboratories; uses may not involve noxious odors or danger from fire or explosion.
9. Public and privately operated off street parking lot, including overnight storage of cars, trucks, busses, trailers, campers, utility vehicles.
10. Surface parking to support any Permitted Use.
11. Accessory recreation facilities for the use of employees of uses permitted in this district.
12. Accessory food service and production facilities for uses permitted in this district.
13. Manufacture and assembly of the following: clothing, electrical appliances, food products preparation, leather goods, machinery and machinery parts, excluding those made with forges. In no case shall uses include processes where basic materials are converted on the premises.



14. Types of light manufacturing which are similar to [above] which employ electricity or other non objectionable machinery and processes and which are free from disturbing odors, noises, potentially hazardous conditions, or other objectionable factors.
15. Utility transmission and distribution lines.
16. Business offices, manufacturing, processing and/or assembly shops and storage facilities of contractors, caterers, cleaners, decorators, upholsters, pest exterminators, non-retail sales businesses, or other similar non nuisance business offices.
17. Wood and lumber processing facilities including mills, lumber treatment plants, lumber or furniture manufacture or finishing businesses.
18. Warehousing facilities as primary uses, provided that no highly combustive or explosive materials which are likely to burn rapidly or produce poisonous fumes are permitted. Products or materials which involve corrosive or noxious acids, alkalis, liquids, or chemicals shall not be stored within 100 feet of any property line.
19. Wholesale sales businesses with related storage and warehousing facilities; provided that no highly combustible or explosive materials which are likely to burn rapidly or produce poisonous fumes are permitted. Products or materials which involve corrosive or noxious acids, alkalis, liquids, or chemicals shall not be stored within 100 feet of any property line.
20. Water tower, reservoir, storage tank for water, pumping station.
21. Retail feed and fertilizer sales, including those with on-site production facilities.
22. Agricultural uses, excluding the raising of foxes, minks, or other rare fur animals. Commercial green houses are permitted only if any fertilizer materials are stored 100 feet away from any lot line and any heating units are placed a minimum of 50 feet from any lot line.

600-53. Special uses.

1. Any wholesale oil storage facilities, including pipelines for oil transport and accessory structures, which exceed 10,000 gallons.
2. Warehouse sales which exceed the provisions of 6 above (not more than 1 sale of 2 days in length is conducted in a 5 month period).
3. A plant for the assembly of automobiles, farm equipment, or other process



involving the on site processing of basic materials.

4. Automobile repair shop, paint shop, body shop, and all public garages subject to special provisions.
5. Linoleum manufacture.
6. Any manufacturing, commercial, industrial, or businesses use which, in the opinion of the building inspector, involved conditions of a hazardous, objectionable, or potentially dangerous nature that should be reviewed by the board of adjustment.
7. Outdoor display or storage areas for wholesale or retail goods permitted in this district which exceed 100 s.f. in area.
8. Security, office, or storage trailer as a temporary use subject to the conditions of the board of adjustment.
9. Automobile, boat, truck, mobile dwelling unit, motorcycle, utility trailer, rentals, retail and wholesale sales businesses subject to special provisions.
10. Tower, broadcasting and telecommunications as defined in Article XII, Section 600-78 subject to the following special requirements (Ordinance 445):
 - A. Tower applications shall be accompanied by a licensed (in the State of Delaware) professional engineer's report containing the following:
 1. A technical evaluation of the feasibility of attaching the tower or antenna existing buildings, such report to include a structural opinion and report.
 2. A technical evaluation of the utilization of existing towers for telecommunications or other equipment intended for installation on the proposed tower.
 3. A technical evaluation of the feasibility of attaching the tower or antenna to existing buildings, such report to include a structural opinion and report.
 4. Certified copies of all applicable state and federal permits, with any attachments, exhibits and all action thereon.
 5. Copies of all applicable state and federal permits.
 - B. Any principal part of the tower, excluding guy cables, shall be set back from the nearest property line of a church, library, school, nursing home, hospital, or lot zoned residential (R-1, R-2, R-3, or RB) not less than two times the height of the tower or 200 feet, whichever is greater. The setback shall be measured from the nearest point of the property line of the protected use.



- C. No artificial light shall be installed upon any such tower unless required by the Federal Aviation Administration . If such light is required, it shall be screened so as not to project its light below the horizontal plane in which it is located.
- D. Towers over 200 feet in height shall be guyed and not self-supporting nor consisting of lattice type structures, unless the applicant demonstrates that
 - a. guyed tower shall have a greater negative visual impact than a self-supporting tower.
- E. Towers located on existing buildings or structures shall not extend beyond 22 feet above the highest point of the building or structure. Accessory buildings or facilities for towers located on existing buildings or structures shall be located either in or on top of such buildings or structures.
- F. Landscaping shall be provided around the base of the tower and adjacent to a required security fence that shall be at least 10 feet high. The landscaping shall consist of a minimum 25 foot wide planting strip with ground cover and/or grass including at least one row of six foot high evergreen trees providing a solid screen adjacent or proximate to the fence, and 15 foot high, two inch caliper deciduous trees, interspersed within the buffer area and no more than 20 feet apart. Applicants may substitute alternative landscape plans that meet the purposes of this subsection to limit the visual impact of the lower portion of the tower and adjoining accessory facilities. Camouflaged towers designed to look like trees may be exempt from this subsection, subject to Council approval. Towers located on top of buildings three stories or more in height and telecommunication antennas located on existing buildings shall be exempt from this subsection, except that a six foot high solid evergreen screen shall be required between any telecommunications antenna or tower accessory building and adjoining properties. A 10 foot high security fence shall be provided around the anchoring facilities for guy wires for guyed towers.
- G. No outdoor storage shall be permitted at the tower site.
- H. Unless otherwise required by the Federal Aviation Administration or the Federal Communications Commission, the Tower shall be light gray in color. Telecommunications towers designed to look like trees may be exempt from this subsection, subject to approval by the Zoning Administrator. Telecommunication antennas with colors designed to match buildings or structures to which they are attached shall be exempt from this subsection.



- I. A tower shall be located so as not to encroach into any established public or private airport approach as established by the Federal Aviation Administration.
- J. Towers higher than 100 feet must be a minimum of 2000 feet from the nearest similar tower, measured from the base of the towers.
- K. New telecommunications facilities may be attached to an approved tower without applying for an additional special use permit so long as the new facility is in compliance with the requirements and standards of this section.
- L. No interference with existing television, cable television, radio signals, or other electronic devices shall be permitted from the tower. If interference occurs, it shall be immediately remedied by the operators of the tower.
- M. If a tower is abandoned, unused for two years, or no longer operable, it shall be removed within six months of its abandonment. If a tower is not dismantled as specified in this subsection, the Town shall arrange to have the facility dismantled and will assess the landowner all costs associated with the removal of the tower. If the full amount due the Town is not paid by the owner, or person in control of the property, or his or her agent, within 90 days of receipt of a bill from the Town, the Town cause a special assessment to be recorded in the municipal lien docket. The recordation of such special assessment shall constitute a lien on the property and shall remain in full force and effect for the amount due in principal and interest until final payment has been made.
- N. That the owner of such tower shall provide proof to the Town that the tower has undergone a triennial inspection for structural integrity. Said inspection is to be performed by a certified engineer, or other qualified professional, at the expense of the owner of the tower. If structural deterioration is found to, be present, and such deterioration affects the physical stability or aesthetic integrity of the tower, the owner shall be required to correct such deterioration within the time limit to be established by the building department.
- O. The owner of such tower shall give proof of financial responsibility of the owner to the Town in a form deemed satisfactory (bond, insurance, deposit, etc.) to the Town that any damages which may occur to surrounding properties or injury which may occur to persons, which damages or injuries are caused by failure of the tower and/or its associated structural supports, regardless of whether such failure is a result of human error or an act of God, shall be paid by the owner of the tower and/or insurers of the tower.



- P. No tower shall be closer to the property line of the property on which it is erected by more than 125% of the height of the tower.

600-54. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to (6-10) feet, shall be erected in the setback area along all property lines separating a use first permitted in a commercial, business, or industrial district from any lot zoned or used for residential use. Such landscape screens shall be placed on the commercial, business, or industrial lots in such a manner as to not project into the property line of the residential use.

600-55. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the General Industry (GI) District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width:
5. Height of existing and proposed structures.
6. Distances between all buildings, access drives, and streets.
7. Distances of all setbacks, rear yards, side yards.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-56. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of twenty-one thousand (21,000) square feet.
2. Width. Lots shall have a minimum width of one hundred twenty (120) feet.
3. Length. Lots shall have a minimum length of one hundred seventy five (175) feet.
4. Height. No structure shall exceed fifty (50) feet in height.
5. Occupied area. Primary and accessory structures may occupy no more than seventy five percent (75%) of the total lot area.



6. Front yard. Minimum front yard depth of thirty five (35) feet.
7. Side yard. There shall be two (2) side yards. Each side yard shall have a width of not less than ten (10) feet. (Ordinance 435, 1993)
8. Rear yard. There shall be a rear yard the minimum depth of which shall be twenty (20) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-57. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration, or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets.
2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-58. Evidence of safe, practical conditions.

All applicants for building permits or special use permits for any construction or alteration within the General Industry (GI) District shall provide sufficient evidence to the building inspector and/or the board of adjustment assuring employment of "state of the art" protective methods available to each particular industry for reducing hazards from fire, explosion, leakage, and drainage, and to reduce the emission of smoke, fumes, odor, noise, dust, or objectionable amounts of light, and demonstrate that the proposed use will not seriously impair the value of nearby commercial or residential property. Sufficient evidence shall also be provided which details any impacts the proposed development may have on traffic flow patterns, street maintenance needs, utility capacities, or other potential problem areas that may be associated with the intended development.

600-59. Site plan modification.



The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.





ARTICLE X: CHEMICAL (CHEM) DISTRICT

600-60. Permitted uses.

1. Any process involving cleansing, distribution, manufacture, processing, production, warehousing or testing except for the following categories: manufacture of corrosive acids, paints, oils, or fertilizers; production of alcohol, bleaching compounds, curing of hides, rubber products; ore smelting, blast furnaces, garbage dumping, compaction or reduction (including underground placement or incineration); asphalt production; animal rendering.
2. Commercial dry cleaning business.
3. Wholesale oil storage facilities, including pipelines for oil transport and accessory structures provided that such storage does not exceed 10,000 gallons.
4. Any process involving the refining of natural crude petroleum; manufacture of petroleum products; accessory uses to petroleum businesses.
5. Petroleum product storage facilities as accessory uses to uses permitted in this district. Such facilities are subject to setback and area regulations and applicable fire codes.
6. Limited commercial laboratories including medical, dental, clinical, chemical, engineering, photographic and pharmaceutical; academic research and testing laboratories; accessory uses of laboratories; uses may not involve noxious odors or danger from fire or explosion.
7. Surface parking to support any Permitted Use, including overnight storage of cars, trucks, busses, trailers, campers, utility vehicles.
8. Accessory recreation facilities for the use of employees of uses permitted in this district.
9. Accessory food service and production facilities for uses permitted in this district.
10. Manufacture and assembly of the following: clothing, electrical appliances, food products preparation, leather goods, machinery and machinery parts, excluding those made with forges. In no case shall uses include processes where basic materials are converted on the premises.
11. Types of light manufacturing which are similar to [above] which employ electricity or other non objectionable machinery and processes and which are free from disturbing odors, noises, potentially hazardous conditions, or other objectionable factors.



12. Railroads and rail yards; facilities for repair of rail machinery and equipment.
13. Utility transmission and distribution lines.
14. Wood and lumber processing facilities including mills, lumber treatment plants, lumber or furniture manufacture or finishing businesses.
15. Warehousing facilities as primary uses, provided that no highly combustible or explosive materials which are likely to burn rapidly or produce poisonous fumes are permitted. Products or materials which involve corrosive or noxious acids, alkalis, liquids, or chemicals shall not be stored within 100 feet of any property line.
16. Water tower, reservoir, storage tank for water, pumping station.

600-61. Special uses.

1. Any wholesale oil storage facilities, including pipelines for oil transport and accessory structures, which exceed 10,000 gallons.
2. A plant for the assembly of automobiles, farm equipment, or other process involving the on site processing of basic materials.
3. Rubber production plants such as tire, tube, tire recapping, and other rubber products provided that sufficient information is given to the board of adjustment demonstrating that state of the art noise and odor reduction equipment will be included within standard operating procedures.
4. Manufacture of bleaching compounds, ammonia, chlorine, and corrosive acids such as sulfuric, nitric, or hydrochloric acids. Applications are to be analyzed on an individual bases with consideration given to planning for prevention of fire, explosion, leakage of gasses and liquids, off street parking, landscape treatment, and planning for emergency conditions which may result from an accident or malfunction of the intended use.
5. Linoleum, paint, varnish, lacquer, fertilizer, and asphalt manufacture; pesticide production.
6. Any manufacturing, commercial, industrial or businesses use which, in the opinion of the building inspector, involved conditions of a hazardous, objectionable, or potentially dangerous nature that should be reviewed by the board of adjustment.
7. Security, office, or storage trailer as a temporary use subject to the conditions of the board of adjustment.



600-62. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to (6-10) feet, shall be erected in the setback area along all property lines separating a use first permitted in a commercial, business, or industrial district from any lot zoned or used for residential use. Such landscape screens shall be placed on the commercial, business, or industrial lots in such a manner as to not project into the property line of the residential use.

600-63. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the General Industry (GI) District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width:
5. Height of existing and proposed structures.
6. Distances between all buildings, access drives, and streets.
7. Distances of all setbacks, rear yards, side yards.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-64. Area regulations.

1. Minimum area requirements. There shall be a minimum lot area requirement of twenty-one thousand (21,000) square feet.
2. Width. Lots shall have a minimum width of one hundred twenty (120) feet.
3. Length. Lots shall have a minimum length of one hundred seventy five (175) feet.
4. Height. No structure shall exceed fifty (50) feet in height.
5. Occupied area. Primary and accessory structures may occupy no more than seventy five percent (75%) of the total lot area.
6. Front yard. Minimum front yard depth of thirty five (35) feet.



7. Side yard. There shall be two (2) side yards. Each side yard shall have a width of not less than ten (10) feet. (Ordinance 435, 1993)
8. Rear yard. There shall be a rear yard the minimum depth of which shall be twenty (20) feet.
9. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-65. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration, or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets).
2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-66. Evidence of safe, practical conditions.

All applicants for building permits or special use permits for any construction or alteration within the General Industry (GI) District shall provide sufficient evidence to the building inspector and/or the board of adjustment assuring employment of "state of the art" protective methods available to each particular industry for reducing hazards from fire, explosion, leakage, and drainage, and to reduce the emission of smoke, fumes, odor, noise, dust, or objectionable amounts of light, and demonstrate that the proposed use will not seriously impair the value of nearby commercial or residential property. Sufficient evidence shall also be provided which details any impacts the proposed development may have on traffic flow patterns, street maintenance needs, utility capacities, or other potential problem areas that may be associated with the intended development

600-67. Site plan modification.



DRAFT: November 5, 2004



The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.





ARTICLE XI: CONSERVATION (CON) DISTRICT

600-68. Permitted uses.

1. Public and private open space.
2. Public and private outdoor recreation facilities.

600-69. Special uses.

1. Public and private enclosed recreation facilities provided such facilities support the open space, recreational character of the district.

600-70. Landscape buffer zones.

A solid fence or wall a minimum of six (6) feet in height, or a significant evergreen landscape barrier with a mature height of six to (6-10) feet, shall be erected in the setback area along all property lines separating a structure permitted under this Conservation district from any lot zoned or used for residential use. Such landscape screens shall be placed on the Conservation lot in such a manner as to not project into the property line of the residential use.

600-71. Site plan.

All applicants for subdivision approval, rezoning, or building permits who wish to 1) develop a site, 2) erect any structure, or 3) alter any structure in a manner different from that which is specified in the Conservation (Cons) District shall be required to submit a site plan. Such a plan should include, as a minimum amount of information, the following:

1. Area requirements.
2. Minimum lot area.
3. Maximum lot coverage of proposed construction.
4. Minimum lot depth and width:
5. Height of existing and proposed structures.
6. Distances between all buildings, access drives, and streets.
7. Distances of all setbacks, rear yards, side yards.
8. Topography lines of existing lot and the drainage plan for the intended improvements.
9. Required off street parking facilities.
10. Required landscape buffer zones and optional landscape treatment.

600-72. Area regulations.



1. Height. No structure shall exceed twenty-five (25) feet in height.
2. Occupied area. Primary and accessory structures may occupy no more than fifteen percent (15%) of the total lot area.
3. Minimum setbacks. The minimum setback from any property line to any building or structure shall be fifteen (15) feet.
4. All measurements shall be determined from the lot lines of the registered plot intended to be developed.

600-73. Building permits.

1. Building permits shall be required for all construction, renovation, or alteration involving the structural components of a building, including the removal, replacement, alteration, or additional construction of exterior or interior walls, ceilings, beams, joists, studs, floor supports, plumbing equipment, or significant electrical work (defined as projects involving more than fifty (50) feet of wiring or two (2) or more electrical outlets).
2. Building permit applications shall be accompanied by at least three (3) copies of site plans drawn to scale, with sufficient clarity and detailed dimensions to show the nature and character of the intended development.
3. The building inspector shall have the discretionary authority to waive the requirement for filing professionally prepared site plans when the work involved is of a minor nature, or in cases where certification of accuracy is not deemed necessary to insure compliance to building, zoning, or other ordinance requirements.

600-74. Site plan modification.

The Town Administrator, building inspector, board of adjustment, and the Commissioners of Newport have the right to require additional specific information concerning any proposed construction or alteration from any permit applicant. They also may, in approving a permit, recommend or require conditions and/or variations pertaining to lot size, specific distances, height of buildings, placement of structures, design of landscape zones, off street parking facilities, drainage plans, and other information when in their opinion such modifications are deemed necessary to secure the general intent of the land use district, the best development of the community, and to reduce injury to surrounding property values.



ARTICLE XII: SPECIAL PROVISIONS FOR FLOOD PLAIN LANDS

600-75. Purpose.

It is the purpose of this article to promote the public health, safety, and general welfare by regulating the use of flood hazard areas subject to and necessary for flood waters. It is also the intent of this article to:

1. Promote the general health, welfare, and safety of the community.
2. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
3. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal, and natural drainage.
4. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.

600-76. Abrogation and greater restrictions.

This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

600-77. Applicability.

It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure within the Flood Plain Area, unless a permit has been obtained from the Permit Officer. Additionally where land is to be subdivided, or otherwise developed, a site plan must be submitted to, and approved by, the Building Inspector prior to any such development.

Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this Ordinance and the community's need to minimize the hazards and damage resulting from flooding.

600-78. Definitions.

BASE FLOOD. The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.



DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance. (Ord. 440, 1995)

FLOOD. A general and temporary inundation of normally dry land areas.

FLOOD PLAIN.

1. A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation.
2. An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODWAY (REGULATORY FLOODWAY). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (Ord. 440, 1995)

FLOOD PROOFING. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

HISTORIC STRUCTURE. Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior; or



2. Directly by the Secretary of Interior in states without approved programs. (Ord. 440, 1995)

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle. (Ord. 440, 1995)

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 440, 1995)

NEW CONSTRUCTION. Structures for which the Start of Construction as herein defined commenced on or after the effective date of this Ordinance and includes any subsequent improvements to such structures.

ONE-HUNDRED (100) YEAR FLOOD. A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

PERSON. Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

PRINCIPALLY ABOVE GROUND. Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis; has a floor area of 400 square feet or less when measured at the largest horizontal projection; is designed to be self-propelled or permanently towable by a light duty truck; and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub Law 97-348, includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the



installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement. This term includes structures which have incurred "substantial damage", as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

TOWER, BROADCASTING AND TELECOMMUNICATIONS. An above grade tower or similar structure more than 20 feet in height for communications equipment principally intended for the transmittal or reception of commercial, governmental, and related radio, television, microwave, cellular phone, and similar telecommunications signals. Towers or similar structures for the above uses, installed on tops of or attached to buildings, water tanks, or similar facilities shall be included in this definition, if the total height of the tower/structure exceeds 15 feet above the peak of the roof. This definition includes the accessory buildings, storage facilities, and related equipment required for broadcasting and telecommunications antennas that may be attached to or on the facades of buildings and structures, provided, however, this definition shall not include the



Police and Fire Departments and municipal services provided by the Town of Newport (Ordinance 445).

600-79. Establishment of flood plain area.

1. Identification. The identified floodplain area shall be those areas of the Town of Newport which are subject to the one hundred (100) year flood, as shown on the Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the Town by the Federal Emergency Management Agency (FEMA) dated April 3, 1987, or the most recent revision thereof.
2. Description of Flood Plain Areas. The identified floodplain area shall consist of the following two specific areas:
 - A. The Floodway area shall be those areas identified as such in the FIS and as shown on the FIRM.
 - B. The Floodway Fringe area shall be those areas for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the Floodway area. These areas are shown on the FIRM.
3. Changes in Designation of Area. The delineation of the identified flood plain area may be revised by the Commissioners of Newport where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).
4. Boundary Disputes. Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the Board of Adjustment. The burden of proof shall be on the appellant.

600-80. Utilization of the floodplain area.

1. In the Floodplain Area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained herein and in all other applicable codes, ordinances, and regulations.
2. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the Base Flood Elevation.



3. Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure City in writing that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

600-81. Criteria for building and site plan approval.

1. General Building Permits are required in order to determine whether all new construction or substantial improvements are:
 - A. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
 - B. Constructed with materials and utility equipment resistant to flood damage; and
 - C. Constructed by methods and practices that minimize flood damage; and
 - D. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. Basic Format. The basic format of the Building Permit shall include the following:
 - A. Name and address of applicant.
 - B. Name and address of owner of land on which proposed construction is to occur.
 - C. Name and address of contractor.
 - D. Site location.
 - E. Brief description of proposed work and estimated cost.
 - F. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
3. Elevation and Flood proofing Information. Depending on the type of structure involved, the following information shall also be included with the application for development within the Flood Plain Area:
 - A. For structures to be elevated to the Base Flood Elevation:
 1. A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.



2. A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
 3. Plans showing the method of elevating the proposed structure, includes details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Building Inspector, these plans shall be prepared by a Registered Professional Engineer or Architect.
 4. Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.
- B. For structures to be flood proof to the Base Flood Elevation (nonresidential structures only):
1. Plans showing details of all flood proofing measures, prepared by a Registered Profession Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
 2. A determination of elevations of existing ground, proposed finished ground, lowest floor, and flood proofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
 3. A certificate prepared by the registered Professional Engineer or Architect who prepared the plans in (1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
 - a. Below the Base Flood Elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - b. The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.
 4. Site Plan Criteria. The owner or developer of any proposed subdivision, or other development shall submit a site plan to the Building Inspector which includes the following information:
 - A. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.



- B. A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.
- C. Where the subdivision and/or development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

600-82. Specific requirements.

- 1. Design and Construction Standards. In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain Area.
 - A. Basements and Lowest Floors
 - 1. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation.
 - 2. All new construction and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is flood proof in accordance with Section 600-81, Subsection 3(b).
 - 3. For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch



for every square foot of enclosed area subject to flooding shall be provided.

- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

B. Manufactured Home Placement

1. Manufactured homes to be placed or substantially improved within any floodplain area on sites a) outside of a manufactured home park or subdivision, b) in a new manufactured home park or subdivision, c) in an expansion to an existing manufactured home park or subdivision or d) in an existing manufactured home park or subdivision in which a manufactured home has incurred "substantial damage", as defined herein, as the result of a flood shall:
 - a. be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the Base Flood Elevation and,
 - b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provision of the paragraph above shall be elevated so that either:
 - a. the lowest floor of the manufactured home is at or above the Base Flood Elevation, or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement."

- C. Recreational Vehicle Placement.** Recreational vehicles to be placed within any floodplain area shall either: (a) be on the site for fewer than 180 consecutive days and (b) be fully licensed and ready for highway use or meet the provisions of Section 600-81, Subsection 1(b) of this article. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions.



- D. Fill. If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:
1. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.
 2. Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.
 3. Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.
 4. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Building Inspector.
 5. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
- E. Placement of Buildings. All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.
- F. Anchoring.
1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.
 2. All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.
 3. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors such as the following:



- a. Over-the-top ties shall be provided at each of the four corners of the manufactured building, with two additional ties per side for manufactured office trailers less than 50 feet long.
 - b. Frame ties shall be provided at each corner of the structure with five additional ties per side at intermediate points, with manufactured office trailers less than 50 feet long requiring four additional ties per side.
 - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. Any additions to a manufactured office trailer shall be similarly anchored. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- G. Storage. No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.
- H. Utility and Facility Requirements.
 - 1. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems.
 - 2. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - 3. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.
 - 4. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- I. Drainage. Adequate drainage shall be provided to reduce exposure to flood hazard.

600-83. Administration.

- 1. Building Permits and Site Plan Approvals Required. It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured office trailers as approved by the Board of Adjustment) within the Flood Plain Area, unless a permit has been obtained from the Building Inspector. In addition, where land is to be subdivided, or otherwise developed, a site plan must be submitted to



the Town in accordance with the Town's Subdivision and Land Development Regulations and approved prior to any such development.

2. **Approval of Permits and Plans.** All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the State and all other applicable codes and ordinances. The Building Inspector shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State Law. A record of all information supplied to the Building Inspector shall be kept on file by the Building Inspector.
3. **Application Procedures.** Application for building permit and site plan approvals shall be made, in writing, to the Building Inspector, and shall include all information stipulated under Section 600-81 of this article.
4. **Changes.** After the issuance of a building permit or site plan approval by the Building Inspector, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Building Inspector.
5. **Placards.** In addition to the building permit, the Building Inspector shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of it issuance and be signed by the Building Inspector.
6. **Start of Construction.** Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Inspector.
7. **Inspection and Revocation.** During the construction period, the Building Inspector or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event of Building Inspector discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Building Inspector shall revoke the building permit and report such fact to the Town Manager for whatever action is deemed necessary.

600-84. Appeals and penalties.

1. **Appeals.** Whenever any person is aggrieved by a decision of the Building Inspector with respect to the provision of this Ordinance, it is the right of that person to appeal to the Board of Adjustment. Such appeal must be filed, in writing, within thirty (30) days after the date of the letter of determination by the Building Inspector. Upon receipt of such appeal, the Board of Adjustment shall



set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Board of Adjustment shall be final in all cases.

2. Appeal Review Criteria. All decisions on appeals to the provisions of this article shall adhere to the following criteria:
 - A. Affirmative decisions shall only be issued by the Board of Adjustment upon a showing of good and sufficient cause; a determination that failure to grant the appeal would result in exceptional hardship to the applicant; and a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - B. An affirmative decision shall be issued only upon a determination that it is the minimum necessary, considering the flood hazard, to afford relief.
 - C. An affirmative decision may be issued for the repair or rehabilitation of historic structures only upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - D. The Board of Adjustment shall notify the applicant in writing over the signature of a community official that the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance; and such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph e. of this section.
 - E. The Board of Adjustment shall maintain a record of all decisions including justification for their issuance, and report such decisions issued in its biennial report submitted to the Federal Insurance Administration.
 - F. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.
2. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Building Inspector or any other authorized employee of the community shall be guilty of an offense and, upon conviction shall be subject to the penalties set forth in Article XVI, Section 600-107 of this Ordinance. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the Mayor and Commissioners to be a public nuisance and abatable as such. (Ordinance 435, 1993)



ARTICLE XIII: OFF STREET PARKING

600-85. General off street parking provisions.

1. Off street parking spaces, either open air or indoor, shall be provided with all new construction or the significant alteration of existing uses as specified in this zoning ordinance. Spaces must be provided on the same lot as the use to which they are intended to serve, and are to be furnished with necessary driveways and passageways. Insofar as possible, the provisions of off street parking shall apply to any rebuilding, reconstruction, alteration, renovation, or remodeling of any premises. All parking spaces, areas, lots, passageways, and driveways shall be clearly marked or identified, except when provided for a family dwelling or semi-detached unit. Parking areas shall be adequately drained subject to the approval of the building inspector.
2. The collective provision of off street parking areas by two or more buildings or uses located on adjacent lots is permitted; further, the total number of stalls for such combined facilities may be reduced by not more than twenty percent (20%) from the number of stalls required for the separate uses provided an off street parking plan has been approved.
3. All parking areas, driveways, and accessory passageways serving commercial, business, and industrial uses shall be suitably illuminated during the hours between sunset and sunrise when the use is in operation. A minimum average horizontal illumination level of 0.5 foot candle shall be maintained for all parking areas, with no portion of any parking area having an illumination level less than 0.25 foot candle. The maximum level of lighting in any portion of a parking lot shall be three (3) foot candles, except directly beneath light fixtures. Adequate shielding shall be provided to protect adjacent residential zones and uses and passing motorists from the glare the such illumination and the headlights of parked automobiles.
4. When the computation of the number of required parking spaces results in a fraction, the required number shall be the next highest whole number.
5. Site plans filed with building or special use permit applications shall illustrate all required and optional parking spaces for the intended use. All surfacing, landscaping, location of entrance and exits, marking, and lighting shall be subject to the approval of the building inspector to assure a proper relation to traffic safety and the protection of nearby residential uses.
6. Diagonal parking, and indented parking created by indenting the curb or right of way line of a street or by traversing the curb or right of way line, except for access to a clearly defined parking area, is strictly prohibited.



7. **Parking space areas.**
 - A. A parking space shall be an area twenty (20) feet long and ten (10) feet wide.
 - B. A commercial parking lot with a full time attendant may use parking spaces that are eighteen (18) feet long and eight (8) feet wide.
 - C. Compact car spaces shall be an area sixteen (16) feet long and eight (8) feet wide (128 sq. ft.). Not more than 25% of the off street parking space required for a use shall be devoted to compact car use.
8. **Loading space areas.** Loading spaces or zones to accommodate the normal demands of commercial, business, or industrial uses permitted in this ordinance may be provided: however, no such loading space shall replace, be considered as, or be used as required off street parking but shall be provided in addition to requirements stated in this zoning ordinance.
9. **Landscape Material.** All ground cover, shrubs, trees, and landscape material provided to satisfy requirements of this ordinance shall be located and maintained so as to not interfere with vehicular and pedestrian traffic on the property or with reasonable sight clearance at all exits and entrances.

600-86. Parking areas in residential districts.

1. The establishment of any off street parking facility with a capacity for more than four (4) automobiles or having an area greater than eight hundred (800) square feet shall require a special use permit subject to the following:
 - A. Have a landscape buffer zone of at least fifteen (15) feet between paved area and any adjacent residential lot.
 - B. Be attractively landscaped and screened from neighboring residential lots.
 - C. Not extend into any front yard area, except for driveways.
 - D. Be used only for the temporary parking of private passenger vehicles (non-commercial vehicles).
2. **Garages.** The construction of a private garage in a residential district shall be subject to the following conditions with regard to location:
 - A. It may be constructed in a yard area provided that it does not violate occupied area requirements for the land use district and is located at least three (3) feet from all side and five (5) feet from all rear yard property lines.
 - B. In the case of a corner lot, it shall be located at least five (5) feet from the rear lot line and, if located within the half of the rear yard nearest the side street line shall be located a distance of one and a half times the required side yard of the land use district from the side lot line.



- C. Upon mutual agreement between property owners, party wall private garages may be built across common lot line provided that such agreements are accomplished according to the laws of the Town of Newport and the State, and provided that written verification of the agreement is given to the building inspector.
- D. An attached private garage shall be subject to the yard and occupied area requirements of the principle residential building.

600-87. Commercial parking areas.

No lot for which the primary use is commercial parking shall be located within fifty (50) feet of any residential district. Appropriate landscape screening shall be provided pursuant to Section 600-88.2.

600-88. Parking areas in commercial, business, and industrial districts.

- 1. Curb cuts for non-residential off street parking areas shall be at least twenty (20) feet but not more than thirty-eight (38) feet wide. No curb cut shall be closer than twenty-five (25) feet to any intersection.
- 2. Landscaping and buffer requirements.
 - A. Parking areas shall be suitably landscaped to minimize noise, glare, and other nuisance characteristics as well as to improve on-site aesthetics. Parking areas providing for more than sixty (60) motor vehicle spaces shall be divided into modular parking bays having approximately the same number of stalls and having in any case no more than sixty (60) stalls each.
 - B. A planted buffer of four (4) feet in width shall be provided on all perimeter areas abutting lot lines or street rights-of-way. This buffer shall include a year-round continuous visual screen which is five (5) feet in height at the time of planting and is fifty percent (50%) evergreen plant material or deciduous material which is demonstratively effective for screening purposes. The height of any required screen, hedge or wall shall not exceed thirty (30) inches where driveways approach sidewalks or walkways in order to provide adequate visibility of pedestrians from motor vehicles, and shall not interfere with clear sight triangle requirements.
 - C. Interior landscaping. In all parking lots of ten (10) or more spaces, at least five percent (5%) of the interior parking area shall be landscaped and at least two (2) trees for each ten (10) spaces shall be installed within landscaped islands. Parking lots of fewer than ten (10) spaces may not require interior landscaping if the planning board determines that there is adequate perimeter landscaping. Planting required within the parking lot is



exclusive of other planting requirements, such as for shade trees planted along the street.

- D. Curbed islands with a minimum radius of three (3) feet shall be located at the end of each parking row and at an interval of every ten (10) spaces. These islands should contain one (1) shade tree with a minimum 3" caliper and shrubs not exceeding 24 inches in height.
- E. Where parking lots include parking stalls in a double-stacked arrangement, two rows of stalls that abut each other shall include a landscaped buffer between them along the entire length of the rows and having a minimum width of four (4) feet. Such a buffer shall include one (1) shade tree with a minimum 3" caliper for every twenty (20) feet of length.
- F. Required landscape or buffer areas shall be maintained in good condition at all times, may be interrupted by normal entrances and exits, and shall have no signs attached thereto, except customary traffic direction and control signs.

600-89. Parking space requirements.

All uses permitted under this zoning ordinance shall be subject to the following minimum off street requirements in addition to any special conditions stated by the building inspector or board of adjustment:

Retail stores	One off street parking space per two hundred (200) square feet of floor area used for sales, plus one space per employee.
Department stores	One off street parking space per one hundred (100) square feet of floor area used for sales, plus one space per employee.
Furniture, appliance store	One off street parking space per, four hundred (400) square feet of floor area plus one space per employee.
Personal service establishments	One off street parking space per two hundred (200) square feet of floor area, plus one space per employee.
Undertakers	One off street parking space per one hundred (100) square feet of seating area, plus one space per employee.
Banks, financial institutions	One off street parking space per two hundred (200) square feet of floor area, plus one space per employee.
Professional offices	One off street parking space per three hundred (300) square feet of floor area.
Medical and dental offices	One off street parking space per two hundred (200)



	square feet of floor area, plus one space per employee.
Churches, religious institutions	One off street parking space per five (5) seats.
Restaurants, bars, nightclubs	One off street parking space per three (3) seats, plus one space per employee.
Dwelling, single family	Two off street parking spaces per family dwelling unit.
Dwelling, multi- family	One off street parking space per dwelling unit, plus one visitor space per ten units.
Rooming house, boarding house	One off street parking space per boarding house, unit, plus one space per employee.
Automobile service, paint shops	One off street parking space per five hundred (500) feet of lot garage area, plus one space per employee.
Union hall, civic club, service organization	One off street parking space per- five hundred (500) feet of floor area.
Public or private school.	One off street parking space per classroom plus one space for each five (5) seats in auditorium area.
General Industry (GI) District	One off street parking space per employee plus one space per five hundred (500) feet of floor area.
General Business (GB) District'	One off street parking space per employee, plus one space per seven hundred fifty (750) feet of lot area.

600-90. Motor vehicles, residential properties.

Upon property used for residential purposes, or upon vacant lots, not currently unregistered motor vehicle, or any vehicle in a state of major disassembly, disrepair, or in the process of being stripped, shall be parked, kept or stored unless said vehicle is parked within an enclosed garage, with doors closed. (Ordinance 435, 1993)

600-91. Motor vehicles, non-residential properties.

Upon Property used for non-residential purposes, not more than two (2) currently unregistered motor vehicles, or any vehicle in a state of major disassembly, disrepair, or in the process of being stripped, shall be parked, kept or stored unless said vehicle is parked within an enclosed garage with doors closed, or in a rear yard area which is screened from view from the street or an adjoining residential district. (Ordinance 435, 1993)

600-92. General parking prohibitions.

1. Commercial service vehicles. The parking, except in private garages, of tractors, tractor trailers, tow trucks, buses, dump trucks, vans, and any other commercial service vehicle whose length is greater than two hundred forty (240) inches or whose width is greater than eighty-four (84) inches or whose height exceeds eighty-four (84) inches is prohibited in all residential districts except when the vehicle is serving a residence in the district.



2. Front yard parking prohibited. In any lot zoned or used for residential purposes, no automobile, pick-up truck, recreational vehicle, mobile dwelling unit, travel trailer, utility trailer camper, boat, or boat trailer shall be parked or stored within a front yard. Parking of such vehicles is permitted in side and rear yard areas at least five (5) feet from all property lines.
 - A. Parking of such vehicles within corner lots is permitted at least five (5) feet from the rear yard and at least ten (10) feet from the side lot line next to the side street.
3. No travel trailer, utility trailer, shack, shed, tent, garage, porch, van, camper, vacation trailer, boat, or automobile may be used for temporary or permanent living quarters in any land use district.

600-93. Off street parking plan option.

At the option of any property owner, land developer, or land user the minimum off street parking requirements may be waived for any land use upon application to the board of adjustment for a special use permit parking plan which may coordinate adjacent or nearby public and/or private parking facilities.

1. Such plans may only be submitted with the following minimum amount of information of a site plan:
 - A. The size, number, and location of parking spaces for automobiles, compact cars, motorcycles, and any loading zones.
 - B. Entrances, exits, sidewalks, curb cuts.
 - C. All interior drives.
 - D. All signs, lighting, and landscaping elements included as part of the proposed parking plan.
 - E. Topography lines and proposed drainage and maintenance facilities.
 - F. A written statement explaining why a literal enforcement of these minimum off street parking standards would create an exceptional hardship on the proposed development.
 - G. A written statement explaining how the proposed parking plan will satisfy the off street parking needs of the development, providing that information on the effects of the parking plan on traffic flow patterns, street maintenance needs, and potential effects on the quality of nearby residential areas.
 - H. In analyzing the information presented according to f. and g, the board of adjustment must also anticipate the future off street parking needs of the development under consideration, taking into account other possible uses which may occur in the near future and what effect, if any, this parking plan would have in limiting the off street parking needs of those uses.



2. The board of adjustment may approve or disapprove any parking plan submitted. The board of adjustment may require additional information from any applicant to provide sufficient analysis of the parking plan, to ascertain the intentions of the applicant regarding the provision of satisfactory parking spaces for employees and customers, and to fulfill the objectives of this article in requiring reasonable and adequate off street parking spaces in the Town of Newport.





ARTICLE XIV: SIGN REGULATIONS

600-94. Permitted uses.

1. Building Signs. These shall be placed on the vertical wall or portion of a building and shall not extend beyond the wall or portion in any direction.
2. Free Standing Signs. These shall be independently supported and firmly fixed to the ground.
3. Portable signs. These shall be fixed on a moveable stand, self-supporting without being firmly imbedded in the ground, or made easily movable in some other manner. (Ordinance 435, 1993)

600-95. General restrictions.

1. No sign shall be erected so that the top of the sign is higher than the top of the primary structure with which it is associated.
2. No sign shall be attached to trees, fence posts, stumps, utility poles, bridges, culverts, or other signs; but shall be free standing or attached to buildings in an approved manner. This restriction shall not apply to legal notices and public announcements which are properly posted.
3. No sign of any type shall be placed in such a position along a highway or street or intersection so as to cause danger to traffic by obscuring the view.
4. Sign illumination, where permitted, shall be of white light, either direct or diffused and shall not be of an intensity which disturbs or distracts passing motorists or nearby residences.
5. No sign shall be of a flashing, moving, rotating, oscillating, or similar type. In no case shall buildings or structures or signs be outlined by tubing or strings of lights for advertising purpose.
6. No sign, pennant, streamer, spinner, or similar device constructed of cloth, fabric, cardboard, metal, or other materials shall be displayed for attention-getting purposes, except for special uses approved on a temporary basis.
7. All signs must be constructed of durable materials and be maintained in a safe manner.
8. Whenever a sign becomes dilapidated, or structurally unsound, or endangers public safety or property, such sign must be removed or repaired to the



satisfaction of the building inspector by the owner or property user within five (5) days of notification by the building inspector.

600-96. Use regulations.

1. Identification and announcement signs.
 - A. Professional, accessory use or name signs indicating the profession or activity of the dwelling occupant, or signs indicating the private nature of a driveway or property provided that not more than one (1) such sign shall be located along one road frontage within a lot and that the total combined area on one side of the sign does not exceed one (1) square foot. These may be free standing or building signs.
 - B. Identification signs, announcement signs, or bulletin boards relating to a church, school, hospital, municipal building, or similar public, charitable, or religious institution building provided that:
 1. The area on one side of any such sign shall not exceed ten (10) square feet.
 2. Each sign shall be located on the lot of the institution to which it relates.
 3. Not more than one sign shall be placed on any street frontage of any one property.
 4. Such sign will contain nothing of a commercial advertising nature.
 - C. In addition to Section 600-96.2, such institutions may place one (1) identification sign on a building provided that the sign area shall not exceed five (5) percent of the face of the building to which it is mounted.
2. Building signs.
 - A. Building signs which direct attention to the identity of a business, profession, industry, laboratory, or similar commercial enterprise or which describe (Ordinance 435, 1993) the activity conducted on the property on which the sign is erected, in the General Business, Redevelopment Overlay, Professional Office, General Industry, and Chemical Districts. Such signs shall not exceed one (1) in number on any one road frontage of a lot and the total area of one side of the sign shall not exceed fifteen (15) percent of the front facade area. Such signs shall not be mounted or attached to any roof area.
 - B. Building signs which identify a building may be used but only one such sign shall face any street frontage and the gross area of such sign shall not exceed fifteen (15) percent of the facade of the front wall.



- C. For buildings occupied by more than one use, a combined sign may be installed identifying the occupants. The total area of one sign side shall not be more than twenty-five (25) square feet with five (5) square feet added for each added occupant.
 - D. Building identification signs may be used on the portion occupied by each occupant, but all such signs together shall not be greater in area than five (5) percent of the face area of the building on which they are placed. This rule shall also apply to the illustration or identification portion of facade gambrel attached to multiple occupant commercial structures.
 - E. All building signs must be attached to the building to which they direct attention.
- 3. Official signs, erected by a public authority or utility such as but not limited to highway signs, railroad crossing, danger signs, and any other sign that may be required by a governmental or public authority in connection with identification operation, or protection of an activity.
 - 4. Warning signs may be placed by property owners to warn of dangers such as but not limited to hidden driveways, traffic directions on private drives, highway obstructions. Such signs shall not be greater than one (1) square foot on any side.
 - 5. Real estate signs relating to the advertising of individual properties for sale or rent may be placed on the property but shall not be greater than four (4) square feet. Not more than one sign shall be placed on a property by any one real estate agency. Signs shall be removed promptly when the property is sold.
 - 6. Advertising signs of developments of ten or more lots may be placed on the development, but the total area of one side of a sign shall not be more than fifteen (15) square feet.
 - 7. Directional signs relating to a use located in the Town may be erected off the property of the use. These signs shall not include more than the name, direction, and nature of the activity referred to. Each sign shall have not more than two (2) square feet on one side and not more than two shall be erected for any one activity. Directional signs for activities located outside the Town are prohibited.
 - 8. Real Estate directional signs for a development within the Town may have an area on one side of not more than two (2) square feet any may carry only the name of the development, the developer, an agent, and the direction. Not more than five signs may be erected in the Town.
 - 9. Legal notices such as but not limited to 'posting' signs, no trespassing signs, no hunting signs, are permitted but not to exceed one (1) square foot in area.



10. Public announcements to advertise public benefits of churches, fire companies, charitable groups, private garage sales, and other temporary events provided that:
 - A. The event is held in the Town.
 - B. The notices are not posted for more than two weeks prior to the event.
 - C. The notices are removed within forty-eight (48) hours after the event.
11. Roadside signs advertising the sale of farm products provided that:
 - A. Not more than one (1) sign is erected.
 - B. The area on one side of the sign shall not exceed nine (9) square feet.
 - C. The sign shall be removed or kept in good condition during the season when products are not being offered for sale.
12. No billboard shall be erected in the Town of Newport.
13. Portable signs advertising the identity of a business or which describe the activity conducted on the property on which the sign is erected are permitted in the General Business, Redevelopment Overlay, Professional Office, Chemical and General Industry districts provided that:
 - A. Not more than one sign is displayed.
 - B. The area on one side of the sign shall not exceed square feet.
 - C. The sign shall be removed from view during the hours when the business is closed. (Ordinance 435, 1993)
14. No free-standing sign or sign mounting may be located within ten feet of a street right-of-way or lot line, or within a sidewalk area.

600-97. Schedule of sign regulations.

The schedule of sign regulations sets forth the size and placement of signs within the various land use zones. Unless modified elsewhere such standards shall be deemed to be the minimum (or maximum) in each of the zones.



Sign Type	Max. area	R-1	R-2	R-3	GB	Redev	PO	GI	Chem	Cons
Residential name plate	1 sq. ft.	x, a	x, a	x,a						
For sale or lease	4 sq. ft.	x, a	x, a	x, a		x, a, f				
For sale or lease	20 sq. ft.				x, a		x, a	x, a	x, a	x, a
Identification signs for public parks, play areas parks, play areas	10 sq. ft.	x, a	x, a	x, a	x, a	x, a, f	x, a	x, a	x, a	x, a
Residential development	15 sq. ft.	x, a	x, a	x, a						
Residential office identification signs	1 sq. ft.	x, a	x, a	x, a						
Business and professional office signs	c, d, e				x, b	x, b, f	x, b	x, b	x, b	
Business and service establishment signs	c, d, e				x, b	x, b, f	x, b	x, b	x, b	
Industrial identification signs	c, d, e							x, b	x, b	

Regulations and Legend

- x** Permitted in this land use zone.
- a** Signs may not be illuminated.
- b** Signs may be illuminated by non-flashing light.
- c** Freestanding signs between 10 and 20 feet of a street lot line may not be larger than twenty (20) square feet.
- d** Free standing signs between 20 and 30 feet of a street lot line may not be larger than thirty (30) square feet. No free standing sign farther than 30 feet from a street line may be larger than 45 square feet.
- e** Building signs may not be larger than fifteen (15) percent of the front facade area of the structure, may not project beyond any wall, or be mounted more than twelve (12) inches from any wall. Maximum sign size is 45 sq. ft.
- f** Redevelopment overlay district sign regulations.



1. Ground floor commercial uses within the redevelopment overlay district may have one (1) sign abutting their primary frontage. Permitted signs are attached building signs and awning/canopy signs. In addition, window signage shall be permitted subject to the restriction below. If a commercial use has a secondary entrance, one (1) additional attached sign is permitted at that entrance, provided it is mounted flush against the wall and does not exceed four (4) square feet in area.
2. Building signs that are placed flush against a wall may not exceed the lesser of fifteen percent (15%) of that wall's surface area or sixteen (16) square feet.
3. Building signs may be mounted perpendicular to a wall provided they do not extend more than three (3) feet from that wall and do not have an area greater than six (6) square feet. The bottom of a sign mounted perpendicular to a wall shall be at least eight (8) feet above any sidewalk.
4. Window signage is permitted providing said signage does not exceed twenty percent (20%) of the window area.
5. Each commercial storefront may have one awning or canopy sign subject to the following conditions:
 - a. Only one (1) such sign is permitted per storefront, on the first floor only.
 - b. Sign letters and characters may be painted or sewn. Maximum letter height shall be nine (9) inches.
 - c. Maximum lettering area shall not exceed one-half (1/2) square foot for each linear foot of building frontage, or sixteen (16) square feet, whichever is less. Inclusion of the premise's street address on the awning or canopy shall not be counted towards the maximum permitted sign area or number of signs.
 - d. Awning or canopy signs attached to the same building must be the same shape, color and height, regardless of individual business ownership or tenancy in the building.
 - e. Awning or canopy signs may not extend outward from a building's façade more than three (3) feet, and may not encroach into a public right-of-way unless said awning or canopy is at least eight (8) feet above any sidewalk or other right-of-way.

600-98. Sign permit fees.

A sign permit will be required prior to the erection or installation of any sign in the Town of Newport. The replacement, repainting or change of a sign facing which does not structurally alter a sign does not require a permit. (Ordinance 435, 1993)



1. Building Signs. Each building sign permit shall cost fifteen (\$15) dollars.
2. Free Standing Signs. Each free standing sign permit shall cost thirty (\$30) dollars.
3. Portable Signs. Each portable sign permit shall cost ten (\$10) dollars. (Ordinance 435, 1993) Fees shall be paid prior to the installation of any sign.

600-99. Building sign size calculation.

1. Unless otherwise set forth herein, building signs may not be larger than fifteen (15) percent of the facade area of the front or side structural wall to which they are attached; provided that no sign area exceed a maximum size of forty-five (45) square feet.
2. Facade area shall be determined by multiplying the building frontage of the structural wall which the sign is to be attached by the average height of that wall. Building frontage shall be defined as the linear length or width of a building facing a right of way.





ARTICLE XV: PERMITTED MODIFICATIONS

600-100. Height modifications.

1. The height limitations of this ordinance shall not apply to silos, church spires, belfries, cupolas, and domes not used for human occupancy provided that such height does not exceed one and a half (1-1/2) times the height of the primary building.
2. Chimneys, ventilators, skylights, water tanks, and similar features and necessary mechanical appurtenances usually carried on and above the roof level may exceed the height limitations of this ordinance by not more than fifteen (15) feet provided not more than thirty (30) percent of the roof is to be occupied by such equipment. If such equipment is construed as a separate story, the height restrictions shall apply.
3. The provisions of this ordinance shall not apply to prevent the erection above the building height limit of a parapet wall or cornice for ornamental purposes extending above such a height limit not more than five (5) feet.
4. Public and private buildings, schools, churches, and other similar permitted uses shall increase the front, rear, and side yards by one (1) foot for each foot by which such buildings exceed the height limit for each land use district, and further provided that no building or structure shall exceed fifty (50) feet in height.

600-101. Undersized lots.

1. Hardship. The provisions of this ordinance shall not be enforced so as to create an economic hardship on a property owner. In all cases every effort shall be made to achieve a solution which is in accordance with the intent of this zoning ordinance and which is not detrimental to the surrounding community.
2. Lots. Any parcel of land with an area, length, or width less than that prescribed for a lot in any land use district may be used as a lot for any use permitted in that land use zone, provided that the minimum area distances for, such lot shall be not less than fifty (50) percent of the area, length, or width required for that land use zone. Lots which are less than fifty (50) percent of the minimum area, length, or width of a land use district may not be used for any permitted use without an approved special use permit from the board of adjustment; if such permission is not obtained, undersized lots must remain as undeveloped open space or be included in the area requirement calculations of adjacent lots or parcels according to proper subdivision procedures.

600-102. Yard area modifications.



1. Front yards. In residential, commercial, and industrial zones where the frontage on the same side of the street within two hundred (200) feet if fifty (50) percent or more developed then the required front yard setback area for a new structure shall be that of the average front yard setback of that existing development; provided that such modifications do not substantially interfere with off street parking requirements and thus contribute to traffic congestion in the community.
2. Side yards. In the case of lots upon which an existing structure is located or which comply with the provisions for modification of yard area the combined total side yard requirements shall be reduced by six (6) inches for each foot by which a lot is less than the minimum width for the land use zone in which located. In no case shall the side yard area for either side yard be reduced to less than fifty (50) percent of the required amount. (Ordinance 435, 1993)

600-103. Temporary uses within existing lots.

1. It is recognized that it may be in the interests of the Town of Newport and in accordance with the purpose of this ordinance to permit temporary activities for a limited period of time, which activities may not be permitted by other provisions of this zoning ordinance. If such uses are of an exceptional nature they may be permitted through a building permit application provided that they will:
 - A. In no way exert a detrimental effect upon the lawful use of land and other activities normally permitted in the land use zone.
 - B. Is intended to contribute materially to the welfare and well being of the public, or the lawful and permitted improvement or development of land within the Town.
 - C. Are temporary uses of exceptional nature which will be completely removed upon the timely completion or termination of the use to which they are accessory to.
2. The Commissioners of Newport may, in directing the issuance of the temporary use building permit, specify a time period for the existence of that use after which reapplication for continued existence or termination of the temporary use will be necessary. (Ordinance 435, 1993)
3. A list of conditions restricting or limiting the conduct of the temporary use may also be attached to the time period permit by the Town Administrator or the Commissioners of Newport

600-104. Historical preservation.

(RESERVED)



ARTICLE XVI: ADMINISTRATION

600-105. Interpretation.

In their application, the provisions of this zoning ordinance shall be the minimum requirements adopted for the promotion of the health, safety, morals, convenience, order and general welfare of the public for securing safety from fire and other dangers, for promoting distribution of population, and for classifications of land uses and utilization of all such land uses as will tend to facilitate and provide for public requirements, transportation, water, drainage, sanitation, educational opportunity, recreation, fertile soil, a secure tax base, and economic governmental expenditures.

600-106. Enforcement.

The provisions of this zoning ordinance shall be enforced by the Town of Newport Administrator with the assistance of the police department and the building inspector. No building permit, special use permit, or certificate of occupancy shall be granted for any purpose except that which is compliant with the provisions of this ordinance, a decision of the building inspector, a decision of the board of adjustment, or a decision of a court of competent jurisdiction.

600-107. Violations and penalties.

1. No person shall erect, construct, reconstruct, alter, convert, maintain or use any building or structure, or use any land in violation of this Ordinance or any change thereof, or shall refuse to properly obtain a permit required by this ordinance, or shall refuse to or fail to comply with an order of the Town Manager, the Building Inspector, or the Board of Adjustment.
2. Any person who shall violate a provision of this Ordinance or shall fail to comply with any notice or order issued by the Town Manager, Building Inspector, or the Board of Adjustment pursuant to the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction, subject to a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00), or imprisonment for not more than thirty (30) days, or both fine and imprisonment. Each day that each violation continues shall be deemed a separate offense punishable by a further sum of fifty dollars (\$50.00) per day per violation. The imposition of a penalty for any violation pursuant to this Ordinance shall not excuse the violation or permit it to continue; and all such violations shall be corrected or remedied within a reasonable time.
3. In addition to the remedies set forth herein, the Town Manager, the Building Inspector, or the Board of Adjustment, or other officials of the Town of Newport so authorized, may institute any appropriate action or proceeding to prevent the



occupancy of the building, structure, land or to prevent any illegal act, conduct, business or use in or about such premises. (Ordinance 435, 1993)

600-108. Building permits.

A building permit shall be required prior to the erection, construction, or alteration of any building, structure, or lot, or a portion of such building, structure, or lot in the Town of Newport. Applications for building permits shall be made in writing to the Town of Newport Clerk, or designated officer, by the owner of the premises or an authorized agent provided that the owner's name and address are included. Such applications shall include site plans which specify existing structures, bounding streets, adjacent lots, specifications and area requirements of all intended uses within the premises, and other pertinent information concerning the proposed property alterations as may be needed to determine the propriety of such a use for permitted uses in specific land use districts located in the Town of Newport. The building inspector shall have the power to authorize all building permits for the construction and/or alteration of main buildings, accessory buildings, or the construction and/or alteration of structures, in the Town of Newport upon receipt of payment of the required permit fee(s). (Ordinance 435, 1993)

600-109. Zoning permits.

A zoning permit shall be required prior to the occupancy or re occupancy by any owner, tenant or subtenant of any structure, unit, or lot in the Town of Newport. The re occupancy of existing residential dwelling units is exempted from the requirements of this section.

Application for zoning permits shall be made in writing to the Town Manager (Ordinance 454, 2000) by the owner of the premises. Such application shall include an signed affidavit by the owner which certifies that the information provided on the application is correct. Such application shall also include a statement which describes the intended uses within the premises, and other pertinent information concerning the use of the property as may be needed to determine the propriety of such a use for permitted uses in specific land use districts located in the Town of Newport.

Fee: The fee for a zoning permit shall be twenty five dollars (\$25.00) per occupancy. (Ordinance 435, 1993)

600-110. Issuance of special use permits.

Since certain businesses may operate for public convenience and necessity that also may be inimical to the public safety and general welfare if located without due consideration of conditions and surroundings, no special use permits for conditional uses allowed in certain land use districts may be granted without the consent of the board of adjustment. Upon receipt of a special use permit application the Town Clerk shall notify adjacent owners according to provisions of this article. The Town Administrator shall deliver a written recommendation to the board of adjustment stating an opinion which considers



whether the issuance of such a permit would be detrimental to the general welfare and convenience of the community. The board of adjustment may grant such a special use permit when it feels that the applicant's proposed conditional use will not:

1. Adversely affect health or safety of persons residing or working in the area of the proposed use.
2. Be detrimental to the public welfare or injurious to property or property values in the area of the proposed use.

In granting such a special use permit, the board of adjustment may designate conditions, in addition to those specified in this zoning ordinance that, in its opinion, will assure conformity of the use and will protect the general welfare of the public. Any party aggrieved by the application for such proposed construction, the written notices announcing the proposed construction, or by the written recommendation of the Town Administrator has the right of appeal to the board of adjustment.

600-111. Board of adjustment.

1. **Composition.** A board of adjustment consisting of the Mayor of Newport, the town solicitor, and town resident appointed by the Mayor.
2. **Meetings.** Meetings of the board shall be held at the call of the chairperson, who shall be the Mayor, and at such other times as the board may determine in completing its tasks. The board may compel the attendance of witnesses. All meetings of the board shall be open to the public and minutes shall be kept showing the attendance and vote of each member. Records of its examinations, hearings, and judgments shall be kept as a matter of public record. Two (2) members shall constitute a quorum of the board.
3. **Appeal to the board.** Complaints and appeals may be taken to the board of adjustment by any person aggrieved by any officer, department, board, or bureau of the Town of Newport affected by any decision regarding the normal agenda of the board. Such appeals shall be made within the period of public notice as specified in this article by filing with the Town Clerk a notice of appeal specifying the nature of the objection. The Town Administrator and building inspector shall transmit to the board of adjustment all papers and records constituting the complete case upon which the appealed action is concerned.
4. **Effect of Appeal.** A notice of appeal shall stay all proceedings and work related to the action in question, unless the officer or person from whom the appeal is taken certifies to the board that by reason of the facts stated in the appeal notice a stay would, in his/her opinion, cause imminent peril to life or property. In such case proceedings and work shall not be stayed otherwise than by a restraining order granted by the board of adjustment or a court of record concerning the action or case at issue.



5. Public hearings. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice of that hearing at least seven (7) days in advance, give proper notice to the parties of interest, and notify the registered owners of properties within three hundred feet (300) of the property in question. The complaint or appeal shall be heard by the board within thirty (30) days of the filing of such an appeal, and shall be decided within thirty (30) days of that hearing. Any party or agent thereof of the property in the appeal action, of a notified property, or of a potentially affected property may attend such hearing and transmit concerned opinion. (Ordinance 435, 1993)
6. Powers of the board of adjustment.
 - A. To hear and decide special use permit applications made within the terms of this ordinance. A written copy of the decision shall be submitted to the Town Administrator and to the property owner stated in the application.
 - B. To consider the written recommendations of the Town Administrator and building inspector made under Section 600-110 of this article.
 - C. To hear and decide complaints and appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an officer of the Town in the administration and enforcement of this ordinance.
 - D. To authorize upon appeal, complaint, request, or court decision a variance from the terms of this ordinance in exceptional cases where due to special circumstances a literal enforcement of this ordinance would result in unnecessary hardship; if compliance with the provisions of this zoning ordinance would result in an exceptional hardship for a prospective developer or owner the board may grant relief from a strict application of this ordinance.
 1. A variance shall involve only the minimum modification necessary to provide relief.
 2. The board of adjustment may attach reasonable conditions and safeguards to the variance to protect public safety.
 3. A complete record of all variance requests and actions shall be maintained by the Town Clerk.

The variance may only be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation, or map in providing for orderly development.
7. In exercising its powers the board may reverse, affirm, or modify, wholly or partly, an order, requirement, decision, or determination made by an officer of



the Town of Newport acting in good faith to complete the duties of his/her position.

8. Appeal to Superior Court from Board's Decision. Any person or persons, jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer or any officer, department, or, bureau of the Town may present to Superior Court a petition, duly verified, setting forth that such decision is illegal, in whole or part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision by the board of adjustment.
 - A. Upon the presentation of the petition, the Court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe the time within which a return must be made and served upon the relator's attorney, which shall be not less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but upon application the Court may grant a restraining order.
 - B. The Court may reverse, affirm, or modify, wholly or partly, the decision brought up for review.
9. The board shall not be required to return the original papers acted upon during its meetings and hearings, but shall be required to return certified or sworn copies of those documents or portions thereof called for by a writ of certiorari. Such a return statement shall concisely set forth all pertinent facts and material and show the grounds of the appealed decision in a verifiable manner.
10. From one (1) year following the adoption of this Zoning Ordinance, the board of adjustment shall not rehear any application for a variance which has been rejected on the merits by the board or by a reviewing Court as of the date of adoption.
11. Any exception or variance from this Ordinance granted by the Board of Adjustment to an application shall expire by the limitation if no construction, alteration or conversion has commenced within one (1) year from the date of granting such variation or exception, if no building permit is issued. (Ordinance No. 435, 1993)
12. The following fees shall be paid to the Board of Adjustment by the applicant making an appeal, which fee shall be turned over to the Town Clerk by the Board of Adjustment.
 - A. For a variance from the requirements of this Ordinance; or a Special Use Permit the fee shall be \$250.00 per variance or Special Use Permit. The Board shall have the option to waive or refund fees in extraordinary circumstances for good cause shown. (Ordinance 435, 1993)



600-112. Site plan review.

1. Purpose. In order to assure the orderly development of the Town of Newport in accordance with the intentions of this zoning ordinance, to assure that maximum care is exercised to preserve and enhance existing natural features, to preclude the creation of traffic safety problems, to conserve the property values within the Town, and to maximize efforts to assure each property owner the right to safe and comfortable enjoyment of a property, a site plan for every use or structure proposed within the Town of Newport shall be reviewed by the building inspector and/or board of adjustment prior to the issuance of building or special use permits.
2. Procedure. After application for a building permit for the construction (not to include internal remodeling not involving structural modifications) of any use or structure and after determination by the building inspector that no variance, rezoning, or special use permit under the terms of this ordinance will be required as a prerequisite to the issuance of such permit, the owner, builder, developer, or agent thereof shall submit three (3) copies of the site plan for the entire parcel to be developed; architectural drawings and specifications are to include all elevations of existing and proposed structures, the locations of all proposed buildings, the location and type of buffering, screening, and landscaping intended for the site; the size, location, and placement of all off-street parking facilities, the size, location, and type of signs proposed for the site, and similar information for any accessory buildings or uses proposed for the premises. The building inspector may require, in appropriate cases, that site plans be drawn at an appropriate scale and be certified by a registered architect or licensed professional engineer. This requirement for prepared site plans may be waived through the discretionary authority of the building inspector in cases where the work involved is of a minor nature. If necessary, the Town Administrator shall direct one (1) copy of the plans to the board of adjustment for its consideration.
3. Review by the Board of Adjustment. In the event that a variance or special use permit under the terms of this zoning ordinance is required for any construction, alteration, or development proposed within the Town, the owner, builder, developer, or agent thereof shall be required to meet the terms of this section only after the board of adjustment has approved the granting of the variance or special use permit for the site plan under consideration. In deciding the merits of a plan, the board may modify the terms and requirements of this ordinance provided that such modifications are granted as exceptions for special, individual cases.
4. Items of Site Plan Review. In conducting and completing their review of project site plans, the building inspector and/or board of adjustment shall determine that the proposed structures and developments will compare favorably with community standards, existing neighborhood characteristics and improvements, and the intended appearance of all streets and neighborhoods in the Town of Newport. In



making such determinations, the building inspector and/or board of adjustment shall consider the following:

- A. The height, bulk, and area of all existing and proposed structures. The setback distances of all existing and proposed buildings from all property lines, and the spacing of those buildings on site.
- C. The size, location, and type of signs specified in the site plan.
- D. The size, location, composition, and construction of all planned and required buffer strips, fencing, screening, and landscaped areas.
- E. The size, location, and placement of all planned and required off street parking, loading, and access facilities.
- F. The relation of the proposed development to the existing buildings and structures in the general vicinity of the site plan area.
- G. The size, location, and shielding of all exterior lighting equipment for buildings and signs.
- H. Topography lines of existing lot and drainage plans for the intended improvement.
- I. The relationship of the proposed development to the intent and detail of all provisions of this ordinance not specifically mentioned above, and the relationship of the proposed project to the health, safety, and general welfare of the citizens of the Town of Newport.

5. Action of Site Plan Review.

- A. Building Inspector. The building inspector shall, within twenty (20) days of the filing of a project site plan, approve or disapprove the proposed development or construction. In the event of a disapproval, the specific reasons for the decision shall be clearly stated to the permit applicant in writing. The permit so applied for shall remain denied until such conditions stated by the Town Administrator, building inspector, board of adjustment, or Commissioners of Newport have been sufficiently corrected.
- B. Board of Adjustment. The board of adjustment shall have thirty (30) days from the filing of the special use permit or variance application to hold a public hearing concerning the proposals stated in the permit application. The board may approve, disapprove, or postpone decision on the proposed development or construction. In the event of disapproval or postponement, the specific reasons for that decision or action shall be clearly stated in writing to the permit applicant. The permit so applied for shall remain denied until such conditions stated by the Town Administrator, building inspector, board of adjustment, or Commissioners of Newport have been sufficiently corrected. In the event of a postponement, the board must hold a second public meeting within thirty (30) days of the action, and decide the merits of the application within thirty (30) days of that hearing.

600-113. Periodic review of Town of Newport Zoning Map.



It is the intent of this ordinance that for purposes of effective, orderly, consistent, and impartial administration and enforcement of proper land development within the Town of Newport that an accurate, defined zoning map must be maintained as an integral component of this zoning ordinance.

1. Therefore, it shall be the responsibility of the Town administrator, with the consent and direction of the Commissioners of Newport and/or the board of adjustment, to maintain an up-to-date, precise, and clearly legible copy of the Town of Newport Zoning Map. This action shall include all variances, rezoning, changes in land use district composition and area, and any alterations in land use district boundary be clearly illustrated on an authorized copy of the Town of Newport Zoning Map with the dates of such decisions provided thereon.
2. Therefore, it shall be the responsibility of the Commissioners of Newport to organize and hold, at such times as may be necessary, a series of public hearings to examine and review the boundaries and area composition of the existing Town of Newport Zoning Map. Such a periodic review of the zoning may shall consider the following:
 - A. The relationship of the existing land use district boundaries to the perceived needs and characteristics of the community.
 - B. The relationship of the existing land use district boundaries to the degree and characteristics of all development that has occurred and been permitted since the previous review of the Town of Newport Zoning Map.
 - C. Possible changes in the placement of land use district boundaries which could protect and maintain the existing characteristics and composition of residential neighborhoods and streets.
 - D. Possible changes in the placement of land use district boundaries which could enhance and further the efficient, orderly development of the business community within the Town of Newport.
3. The product of this series of land use-planning public hearings shall be an equitable, reasonable comprehensive zoning document which must be maintained in an accurate manner as specified herein.



ARTICLE XVII: AMENDMENT PROCEDURE

600-114. Purpose.

The Commissioners of Newport may, at such times as may be necessary, whether by their own motion, a motion of the board of adjustment, or by a motion of a property owner in the Town of Newport, proceed to amend, supplement, change, modify, or repeal, wholly or partly, the zoning regulations, restrictions, conditions, and land use district boundaries of this ordinance in a manner with the procedures provided in this article.

600-115. Fair notice of proposed amendment.

All proposals for amending, supplementing, changing, modifying, or repealing the zoning regulations, restrictions, conditions, or land use district boundaries of this ordinance shall be referred to the Commissioners of Newport for consideration and recommendation. The Commissioners shall then study all such proposals for development, amendment, or change in district boundary and conduct a public hearing on the matter after having given proper, fair notice in advance on the agenda of the meeting. A reasonable effort shall be made to notify by first class mail all property owners of record (according to ownership data available to the Town) whose property is proposed to be changed by said amendment, and to the owners of properties within three hundred feet of the properties affected by the proposed amendment. However, failure to notify by first class mail any individual or group of individuals qualifying for such notice shall not invalidate any action taken concerning the proposed amendment. Prior to the public hearing, the Commissioners shall develop a report, in writing, which states relevant findings and recommendations. (Ordinance 435, 1993)

600-116. Right to require information.

The Commissioners of Newport have the authority to require, as a condition to consideration of any proposal, that a verified petition in favor of the proposal accompany such additional maps, charts, site plans, drawings, data, and other information deemed necessary for a proper consideration of any proposal, and to refuse to consider any request for amendment not complying with this requirement.

600-117. Period of public notice.

No proposed amendment, change, modification, or repeal of any zoning regulation, restriction, condition, or land use district boundary shall become effective until after a public hearing in relation to that proposal has been held by the Commissioners of Newport; at such a public hearing any parties of interest or any residents of the Town of Newport shall have an opportunity to deliver a concerned opinion. At least seven (7) days notice of the time, place, and agenda of such hearing shall be published in a newspaper of general circulation in the Town of Newport.



600-118. Proper objection to proposals of amendment.

In the event of a protest against such proposed amendments or changes that is signed by thirty (30) percent or more of the owners of properties of the area included in the adjoining in the rear and the next five (5) properties on each side of the properties affected by the proposed amendment, such an amendment shall not become effective except by the favorable vote of three (3) of the Commissioners of Newport. All proper protests under this section must be filed with the Town Clerk of Newport by the close of the business day preceding the hearing date published in the public notice.

600-119. Period of eligible reconsideration.

If after due consideration under the provisions of this article any proposal for amendment or change is denied, such proposal shall not be eligible for reconsideration for a period of one (1) calendar year after the final action of the Commissioners of Newport, except upon the favorable vote of three (3) of the Commissioners.

600-120. Conflict with other laws.

In their interpretation and application the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience, and general welfare; where the provisions of this ordinance impose greater restrictions than that of any statute, ordinance, or regulation the provisions of this ordinance shall govern; where the provisions of any statute, ordinance, or regulation impose greater restrictions than this ordinance the provisions of such laws shall govern.

600-121. Validity.

If any section, paragraph, article, subdivision, or provision of this ordinance should be declared invalid or unconstitutional such decision shall refer to and apply only to that section, paragraph, article, subdivision or provision; such decision shall not affect the validity of this ordinance and the remainder shall be valid and effective.

600-122. Repealer.

All ordinances or parts of ordinances inconsistent with the intentions and provisions of this ordinance are hereby repealed.

600-123. Effective date.

This zoning ordinance shall become effective immediately upon adoption by the Commissioners of Newport.



CHAPTER 601: Subdivision and Land Development

ARTICLE I: GENERAL PROVISIONS

601-1. Title.

These regulations shall be known and may be cited as the "subdivision and development regulations" of the Town of Newport, Delaware.

601-2. Authority.

By authority of the Charter of the Town of Newport, the Commissioners of the Town of Newport, Delaware, hereafter referred to as the Commissioners, adopts the following regulations governing the subdivision of land within the corporate limits of Newport, Delaware, and hereby exercises its authority to review, approve, and disapprove plans for the subdivision of land within the corporate limits of Newport, Delaware. By the authority of the Town of Newport Ordinance No. 415, the Planning Commission shall exercise its authority to review plans for the subdivision of land and make recommendations for approval or disapproval. The Town of Newport shall be exempted from these regulations.

601-3. Purpose.

The purpose of this ordinance is to assure adequate sites suitable for residential, industrial, and commercial development within the Town. Such development should be coordinated with existing streets and structures to ensure that, adequate open space and efficient traffic flow are maintained. These subdivision regulations are designed to protect and preserve the health, safety, and general welfare of all Newport residents.

601-4. Scope.

1. This ordinance shall apply to any lot or lots forming a part of a subdivision created before or after the effective date of this ordinance. This ordinance shall supersede all other ordinances or provisions of the law with which it may be in conflict. This ordinance, however, is not intended to impair or interfere with private restrictions placed upon property by deed, covenant or other private instrument, or with restrictive covenants running with the land. Where this ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinances, contract, or deed, the provisions of this ordinance shall control.
2. If any of this Ordinance section, subsection, sentence, clause or phrase is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and



Commissioners hereby declare that they would have passed this ordinance and each section, subsection, clause or phrase irrespective of the fact that any one or more thereof is declared or unconstitutional or invalid.

3. This ordinance will not apply to any action pending under the existing regulations.

601-5. Definition of subdivision.

1. No tract, parcel, or lot of land shall be divided, redivided, subdivided, or re-subdivided by recorded plat, separation of ownership or lease, into two or more tracts, parcels or lots, except in strict accordance with all provisions of this ordinance and the subdivision regulations adopted hereunder.
2. No tract, parcel, or lot of land shall be developed and no construction shall be undertaken thereon, directed toward the occupancy of such land, or the occupancy of any building, building structure or structures thereon, or on any parcel thereof by more than two families or more than two businesses, professional, personal service, or industrial establishments except in strict accordance with the provisions of this ordinance and the subdivision regulations adopted hereunder.
3. No public street, and no private street, alley, or driveway intended to be used by more than two families or by more than two businesses, professional, personal service, or industrial establishments, or by customers of such businesses, professional, personal service, or industrial establishments, or by the public, and no sanitary sewer, water main, or storm drain shall be laid out, constructed, opened, or used over, through, or under any tract, parcel, or lot, except in strict accordance with the provisions of this ordinance and the subdivision regulations adopted hereunder.

601-6. Subdivision control.

1. No permit to erect, alter or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision, unless and until a subdivision plan has been approved and the required agreements have been executed.
2. No work, grading, excavation, construction, erection, or building shall be commenced or done within any subdivision except in strict accordance with provisions in this ordinance and the subdivision regulations adopted hereunder and pursuant to an approved subdivision plan and required agreements; provided, that this section shall not prevent the making of test borings, or engineering surveys.
3. Upon application and upon a showing that there has been full compliance with the subdivision regulations, the Building Code, the Zoning Ordinance, and all other



applicable ordinances and regulations of the Town of Newport and the laws of the State of Delaware, the Building Inspector of the Town shall issue a Certificate of Occupancy to the developer for any dwelling house, building or structure.

4. No dwelling house, building, or structure located in any subdivision shall be occupied or used, wholly or partially, until a Certificate of Occupancy as provided above shall be issued. No land on which any dwelling house, building, or structure is located which is within a subdivision shall be conveyed and no possession of such land or dwelling house, building or structure shall be transferred until a Certificate of Occupancy as provided above has been issued.

601-7. Re-subdivision and future re-subdivision.

1. Re-subdivision. Any change in the map of an approved or recorded subdivision (including plans approved prior to the adoption of this ordinance) which affects street layout, areas dedicated for public use, or any lot line, shall be reviewed by the same procedure, rules, and regulations as for a subdivision.
2. Future re-subdivision. Whenever a parcel of land is subdivided and the subdivision plan shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be re-subdivided into small building sites, the Commissioners may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plan.

601-8. Vacation of approved subdivision plan.

1. The owner of an approved subdivision or any part of an approved subdivision may vacate said plan or any portion of said plan by submitting to the Town Manager a written request stating:
 - A. The reasons for vacation, and
 - B. Metes and bounds description of said property to be vacated. The written request must be accompanied by a copy of the approved and recorded plan.
2. The request shall be acted upon by the Commissioners upon recommendation of the Town Manager and the Planning Commission. The Commissioners may reject any request it deems not to be in the best interests of the public.
3. When the owners of several adjacent parcels wish to vacate recorded plans, a joint written document may be submitted to the Town Manager.

601-9. Schedule of fees.



1. Fees for subdivision application, review, and recordation shall be paid at time of application as follows:
 - A. Administrative subdivision: \$100.00
 1. Recordation fee: 60.00
 - B. Minor subdivision:
 1. Application fee: 200.00
 2. Review fee:
 - a. Per dwelling unit: 50.00
 - b. For all commercial and industrial development, per acre or fraction thereof: 200.00
 3. Recordation fee: 150.00
 - C. Major subdivision:
 1. Application fee: 500.00
 2. Review fee:
 - a. Per dwelling unit: 50.00
 - b. For all commercial and industrial development, per acre or fraction thereof: 200.00
 3. Recordation fee: 650.00
 - D. Variance from subdivision and land development regulations: 350.00
2. When a subdivision is not approved by Commissioners or if the applicant withdraws his application prior to consideration by either the Planning Commission or Commissioners, the recordation fees collected at the time of application shall be refunded to the applicant.

601-10. Conditions.

The Commissioners reserve the right to place conditions upon the approval of the subdivision of land.

601-11. Waiver of subdivision regulations in special circumstances.

The Town Manager, with approval of Commissioners, may waive any requirement of these regulations as they may pertain to any development which, prior to annexation, had obtained subdivision approval from New Castle County.

601-12. Liability.

Nothing in this ordinance shall be construed as to create any liability to the Town of Newport, its agents, servants, and employees with respect to the administration and endorsement of the regulations adopted hereunder.

601-13. Amendments.



The Commissioners may amend these subdivision regulations by ordinance. Public hearings on all proposed amendments shall be held by the Planning Commission and Commissioners after having been advertised in a newspaper of local circulation at least 7 days prior to the meeting date. In the case of an unfavorable report by the Planning Commission, such amendment shall not become effective except by a favorable vote of four-fifths (4/5) of the Commissioners.

Any subdivision or land development plan- that has been officially accepted in writing for review at the time of the effective date of any revision, modification or amendment shall continue to be reviewed under previous regulations through recordation of a plan.

The Planning Commission shall review the regulations annually to determine the advisability of recommending revisions or amendments in light of changing standards and technological advances.

601-14. Existing approved subdivisions.

The subdivision regulations in effect prior to the enactment of these subdivision regulations shall be applicable to any final subdivision plan approved by the Commissioners prior to the enactment of these regulations.

601-15. Enforcement.

1. It shall be the duty of the Town Manager to enforce these regulations and to bring to the attention of the Town Solicitor and Commissioners any violations or lack of compliance herewith.
2. No Building Permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provisions of these regulations.

601-16. Violations; civil suits.

1. The subdivision of any lot or any parcel of land by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
2. No owner or agent of the owner of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before the subdivision has been approved by the Commissioners in accordance with the provisions of these regulations, and a plan filed with the New Castle County recorder of deeds.
3. The Commissioners or any owner of real estate affected by a violation of this section may, in addition to other remedies provided by law, institute injunction,



mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or otherwise correct such action.

601-17. Penalties.

Any violation of these regulations shall be a misdemeanor, punishable by a fine of not less than \$50.00, nor more than \$1,000.00 or by imprisonment not to exceed six months, or by both fine and imprisonment. Any person who shall violate these regulations shall be deemed guilty of a separate offence for every day that the violation shall continue. Furthermore, any person, partnership, corporation, etc., who, prior to entering into a public works agreement to . secure the necessary improvements, contracts to sell, conveys, rents or leases any lots or dedicated or reserved areas which form part of a subdivision, shall be guilty of a misdemeanor and be subject to the above penalties. Each parcel, plat, or lot so disposed of shall be deemed a separate violation of this ordinance.





ARTICLE II: DEFINITIONS

601-18. Meanings.

1. For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
2. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".
3. A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
4. Words and terms defined.

ACCESS WAY. A right-of-way which provides common vehicular and pedestrian access to a property or properties, extending not more than 400 feet from a street to a dead end.

ADMINISTRATIVE SUBDIVISION. The adjustment of property lines or straightening of boundaries; does not create a lot upon which building can occur. (See 601-18.)

ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

ARCHITECT. An architect registered by the Delaware State Board of Examiners and Registration of Architects.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

BUILDING. Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind, and includes any structure.



BUILDING SETBACK LINE. A line extending between the two (2) side lot lines of a lot or parcel of land which is parallel to and a stated distance from a street line.

CARTWAY (ROADWAY TRAVELING). That portion of a street right-of-way which is intended for use as a means of vehicular circulation.

COLLECTOR STREET. A street which serves as the connection from minor streets to the arterial street system.

CONSTRUCTION IMPROVEMENTS PLAN. The maps or drawings accompanying a subdivision plan and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Commissioners as a condition of the approval of the plat.

CROSSWALK. A right-of-way municipally or privately owned, ten feet or more in width, which cuts across a block in order to improve pedestrian access to adjacent street or properties.

CUL-DE-SAC. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement, including the turning of fire trucks.

DEVELOPER. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

DWELLING UNIT. Any structure, or part thereof, designated to be occupied as living quarters for one or more individuals customarily living together as a single housekeeping unit and using certain rooms and housekeeping facilities in common.

EASEMENT. Authorization by a property owner for the use by another and for a specified purpose, of any designated part of his property.

ENGINEER. An individual technically qualified in the State of Delaware and registered by the Delaware Association of Professional Engineers; or in the case of a structure only, in lieu of an engineer, an architect registered by the Delaware State Board of Examiners and Registration of Architects.

FRONTAGE. That side of a lot abutting on a street or way ordinarily regarded as the front of the lot. All sides of a corner lot abutting on a street will be considered frontage.

IMPROVEMENTS. See "lot improvement" or "public improvement".

LANDSCAPE SCREENING. Any planting, structure, device, wall, fence, or



combination of materials with a sufficient height above finished grade so as to create a visual barrier or improve or enhance the natural environment.

LOCAL STREET. A street used primarily as the principal means of access to adjacent residential properties.

LOT. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for purpose, whether immediate or future, of transfer of ownership or for building development.

LOT, CORNER. A lot situated at the intersection of two streets.

LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

MAIN THOROUGHFARE. A street which serves it is designated to serve as a connection between uses which generate heavy traffic volumes and/or between other arterial streets.

MAJOR SUBDIVISION. The division of any parcel of land into six or more lots upon which building can occur, with the following exceptions: All subdivisions regardless of number or size of lots which create new streets shall be classified as major subdivisions; all multifamily developments of six or more families regardless of number or size of lots shall be classified as major subdivisions; all commercial, business, or industrial developments regardless of the number or size of lots shall be classified as major subdivisions, except where no new streets or other public improvements are created.

MINIMUM LOT AREA. The area of a lot taken at its perimeter, exclusive of any portion within a public or private street right-of-way.

MINOR SUBDIVISION. The division of a parcel of land into five or less residential lots upon which building can occur (in accordance with the Zoning Code) or the adjustment of property lines to permit the expansion of an existing structure. The minor subdivision shall not involve any new street or road. The division of a parcel of land for commercial or industrial uses where no new streets or other public improvements are involved.

MONUMENT. A stone or concrete boundary marker intended to fix the physical location of property lines; having a flat top at least five inches in diameter or four inches square, and at least 36 inches in length.

MULTIFAMILY DWELLING UNIT. A dwelling unit which is intended for sale,



lease, or rental located in a residential building designed for or occupied by three or more households.

NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as business, commercial, or industrial.

OFF-SITE. Any premises not located within the perimeter of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

OFFICIAL MAP. The map established by the Commissioners pursuant to law showing the streets, highways, and parks, and drainage systems and setback lines theretofore laid out, adopted, and established by law, and any amendments or additions thereto adopted by the Commissioners or additions thereto resulting from the approval of subdivision plats by the Commissioners and the subsequent filing of such approved plats.

OPEN SPACE, PRIVATE. A plot or area of land and/or water which is not dedicated to public use, but is intended for active and/or passive recreational use or other similar open uses, excluding areas used or intended to be used for buildings, parking, loading, and streets.

OPEN SPACE, PUBLIC. A plot or area of land and/or water which is dedicated to public use by legal mapping and/or by any other lawful procedure and which is intended for active and/or passive recreational use or other similar open uses, excluding areas used or intended to be used for buildings, parking, loading, and streets.

ORDINANCE. Any legislative action, however denominated by the Town of Newport, which has the force of law, including any amendment or repeal of any ordinance.

OWNER. Any persons, group of persons, firm or firms, corporation or corporations, or any other legal, entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARK AND RECREATION IMPROVEMENT FUND. A special fund established by the Commissioners to retain monies contributed by developers in accordance with the "money in lieu of land" provisions of these regulations to purchase recreational lands within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of the subdivision.

PLANNING COMMISSION. The Planning Newport established in accordance with 1988) to advise the Commissioners on addition to other matters.

PUBLIC IMPROVEMENT. Any drainage ditch, roadway, parkway, sidewalk,



pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the Town of Newport may ultimately assume the responsibility for maintenance and operation, of which may affect an improvement for which Town responsibility is established. All such improvements shall be properly bonded.

REGISTERED ENGINEER. An engineer properly registered in the State.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered in the State.

RESERVE STRIP. A parcel of ground in separate ownership separating a street from other adjacent properties, or from other streets.

RE-SUBDIVISION. A change in a map of an approved or recorded subdivision plan if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

REVERSE FRONTAGE LOTS. A lot extending between and having frontage on two generally parallel streets, one major and one minor, with vehicular access solely from the minor street.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on an approved subdivision plan is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of areas of such lots or parcels. Rights-of-way intended for streets, crosswalks water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to the public use by the developer or owner of the approved subdivision on which such right-of-way is established.

STREET, DEAD END. A street or a portion of a street with only one vehicular-traffic outlet.

STREET RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the center line of the street.

SALES OR LEASE. Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, or an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate (not disposed of by will, having made no will) succession, or other written instrument.



SETBACK. The distance between a building and a street line and a building and all surrounding property lines as established by the Zoning Ordinance of the Town of Newport.

STRUCTURE. Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVIDER. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2) directly or indirectly sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision; or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit, or plat in a subdivision; and who (4) is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing.

SUBDIVISION. Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including re-subdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map plat or other recorded instrument. (See "administrative subdivision," "minor subdivision," and "major subdivision" and 601-5 above.)

SUBDIVISION ADVISORY COMMITTEE. A committee comprising of Town Manager, building officials, Town Engineer, Town Fire Marshall or his designate, and the Chief of Police or his designate, and such members of public, semi-public and private agencies, departments, corporations, associations or groups having an interest in the subdivision plan review process, coordinated by the Town Manager to review subdivision proposals in accordance with these regulations.

SUBDIVISION AGENT. Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

SUBDIVISION, MAJOR. See "major subdivision".

SUBDIVISION, MINOR. See "minor subdivision".

COMMISSIONERS. Commission of the Town of Newport, Delaware, which is the legislative body having the power to adopt ordinances.



TREE. Any woody plant which has a trunk diameter of two and one-half to three inches or more in diameter measured three feet above the ground level.

WORK DAYS. The number of days established in these regulations for steps in the review and approval process for subdivision applications. All work day limits shall be guidelines which may be modified by the Town Manager upon reasonable cause. Work days shall mean Monday through Friday, not including days in which the Town municipal building offices are closed.





ARTICLE III: ADMINISTRATION AND PROCEDURE

601-19. Records.

The Town Manager shall keep an accurate public record of its findings, decisions and recommendations relative to all subdivision plans filed with it for review and approval.

601-20. Variances.

If the literal compliance with any mandatory provision of the regulations contained in this ordinance appears to the satisfaction of a majority of the members of the Board of Adjustment present at a scheduled public hearing, to be unreasonable and to cause undue hardship as it applies to a property to be subdivided; the Board of Adjustment may grant a variance to the subdivider of such property from such mandatory provision, so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property; provided, however, that such variation shall not have the effect of nullifying the intent and purpose of this ordinance.

In granting variances, the Board of Adjustment may impose such conditions as will, in its judgement, substantially secure the objectives of the standards or requirement so varied.

Requests for variances from these regulations shall be submitted to the Town Manager who shall contact the Board of Adjustment chairman to fix a time and place to the board for holding a public hearing on the variance request. The Town Manager shall cause notice of the public hearing to be published in the legal notices of the Wilmington News Journal, at least seven (7) days before the date of the hearing. The notice shall contain the time, date and place of the hearing, and shall specify the place and times at which information and maps relating to the proposed variance may be examined.

Requests for variance of the subdivision and land development regulations shall be subject to a nonrefundable filing fee per section, to be due and payable to the Town at the time the request is submitted.

601-21. Submission procedures and approval process administrative subdivision.

The adjustment of property lines or straightening of boundaries which does not create additional building lots shall be approved and reviewed as administrative subdivision under the procedures and regulations below.

1. Application and submission procedures.
 - A. The Town Manager will provide application forms and information to applicants when requested regarding subdivision procedures. An applicant for subdivision approval must provided the following:



1. A completed application for subdivision approval.
 2. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor, if any.
 3. The names and addresses of all adjacent property owners.
 4. A reproducible drawing and ten prints drawn to a scale of one inch equals 50 feet, including the following information:
 - a. The location of all roadways within 100 feet of the property to be subdivided.
 - b. The location of all buildings and accessory buildings on the property being subdivided.
2. Review Procedure.
- A. The Town Manager shall, within ten working days, review the proposed subdivision. Preliminary approval for the administrative subdivision shall be made by the Town Manager if the proposed subdivision will not be detrimental to the public health, safety, or general welfare of the Town or appear injurious to other property. If the Town Manager disapproves the administrative subdivision on the basis that proposed subdivision is in violation of this ordinance or the Zoning Ordinance, the applicant may apply for a variance from the Board of Adjustment under 601-19 of this ordinance.
 - B. Within three working days of preliminary approval of the administrative subdivision, the Town Manager shall send notices of the proposed subdivision to all adjacent property owners and members of the Planning Commission and Commissioners. The applicant may fulfill the requirement of notification by supplying the Town Manager with written statements from adjacent property owners stating that they have reviewed the proposed subdivision and have no objections. If such statements are not provided by the applicant, the Town Manager shall proceed with notification. Notices to adjacent property owners shall explain that they have an opportunity to review the proposed subdivision in the Town of Newport offices, to object in writing to the proposal, and to request a public hearing before the Planning Commission and Commissioners to review the proposal.
 - C. If no objections are forthcoming from adjacent property owners, or any members of the Planning Commission, within twenty working days, the Town Manager shall issue final approval of the administrative subdivision.



- D. After the approval of an administrative subdivision the Town Clerk shall certify such approval on the subdivision plot plan which shows distinctly the part to be recorded. The Town Manager shall certify on the approved subdivision plot plan that said plans and related plans comply with all requirements of the subdivision regulations, and deviations, if any, from the subdivision regulations have been noted and qualified. Three copies of the plan shall be signed and provided to the Town Solicitor for recordation and certification. A copy of the approved plan shall be forwarded to the applicant.

601-22. Same - minor subdivision.

All division of land into five or less residential lots upon which building can occur, or the adjustment of property lines to permit the expansion of an existing structure, shall be approved and reviewed as a minor subdivision under the procedures and regulations below. Subdivisions of five lots or less which involve any new street or road shall be reviewed and approved as major subdivisions.

All division of land into commercial or industrial lots where no new streets or other public improvements are involved shall be reviewed and approved as minor subdivisions.

1. Application and submission procedures.
 - A. The Town Manager will provide application forms and will provide the information to applicants when requested regarding subdivision procedures. The applicant for subdivision must provided the following:
 1. A completed application for subdivision approval.
 2. An affidavit of ownership which shows the book and page number of each conveyance to the present owner as recorded in the County Recorder of Deed's offices.
 3. A reproducible original and 10 copies of a subdivision plan drawn to convenient scale (one inch = 20 feet through one inch = 100 feet) and showing date, scale, and north point. Each sheet shall be numbered to show its relation to the total number of sheets. The subdivision plan shall include the following information:
 - a. A title consisting of the name of the fee simple or equitable owners(s) of the land to be subdivided, the name(s) and address(es) of the subdivider(s) if different than the owner(s) name, and address of the Delaware registered engineer, land surveyor or architect. The subdivision plan shall bear the certificate, signature, and



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seal of a Delaware registered engineer, land surveyor or architect.

b. A graphic and written scale along with date, including the month, day and year that the original ground was completed, and the month, day and year that the original drawing was revised.

c. A location map drawn to the scale of one inch equals 800 feet indicating the location the property and its relationship to streets and other property within 1000 of the applicant's property.

d. The total area of parcel in acres.

e. The courses and distances of the boundary line survey on all properties being subdivided.

f. The proposed name of the subdivision which shall not duplicate the name of any other subdivision in the Town.

g. The layout and dimensions of all proposed lots which will be created by the subdivision.

h. The names of all property owners of unsubdivided property within 200 feet of the extreme limits of the subdivision as their names appear in the tax records. In the event that lots adjoin the land to be subdivided, the subdivision name and lot number of the adjoining lot shall be shown. The zoning classification governing the tract and adjoining properties shall be shown.

i. The location of all existing and proposed water courses and natural drainage flows, and the location and size of storm sewers and other related storm water facilities which may influence the design of the subdivision.

j. The location of the open floodway district and floodway fringe, if applicable.

k. The location, widths, and names of all existing roads upon which the proposed subdivision will front and within 100 feet of the proposed subdivision.

l. Contours lines a vertical intervals of two feet for land with average natural slope of four feet or less, and at



intervals of five feet for land with average natural slope exceeding four per cent.

m. Location of proposed landscape screening, if applicable.

n. The general location of mature tree stands, if any.

o. The location and size of existing and proposed water lines which serve the proposed subdivision.

16. The location and size of existing and proposed sanitary sewers which serve the proposed subdivision.

p. Location of all proposed sidewalks.

q. The dimensions and area of all property to be dedicated or reserved for public open space use, or to be dedicated for use of all property owners in the subdivision, and the location, dimensions, and purpose of any proposed easements, if applicable.

r. Proposed parking areas and number of parking spaces, where applicable.

s. The approximate location of proposed buildings and the amount of land to be used for buildings expressed as a percentage of total land area, if applicable. The location of existing buildings and a description of their present or intended use.

t. The north point, the phrase "Minor Subdivision Plan" and the phrase "Town of Newport, Christiana Hundred, New Castle County, Delaware.

2. Review and approval process.

A. All minor subdivision plans must be submitted to the Delaware State Fire Marshall for approval.

B. 10 copies and a reproducible original of the subdivision plan shall be submitted by the applicant to the Town Manager. The Town Manager shall, within three work days, distribute subdivision plan copies to the Building Inspector and the Town Engineer and Commissioners. Within fifteen working days of the receipt of the subdivision plan, the Building Inspector and Town Engineer shall review, prepare, and return written comments to the Town Manager.



- C. Upon receipt of departmental comments, the Town Manager shall prepare a written report to the applicant indicating those suggestions, concerns, or problems pointed out by the Building Inspector and Town Engineer. This report shall be prepared within five work days and forwarded to the applicant. The applicant may then revise or amend the subdivision plan as per Building Inspector and Town Engineer suggestions.
- D. If the subdivision plan violates this ordinance, or the Town of Newport Zoning Ordinance, and the applicant feels the subdivision plan cannot be revised or amended without the applicant enduring an unreasonable and undue hardship, the applicant may apply to the Board of Adjustment for a variance under the guidelines set forth in 601-19 of this ordinance.
- E. If no concerns are raised by the Building Inspector, Town Engineer, Town Manager, or the State Fire Marshall; or if concerns are eliminated through applicant revisions in the subdivision plan; or if a variance is granted by the Board of Adjustment, the Town Manager shall preliminarily approve the subdivision plan and, within five work days, send notices of the preliminarily approved subdivision to all adjacent property owners, and members of the Planning Commission. The applicant may fulfill the requirement of notification by supplying the Town Manager with written statements from adjacent property owners and all Planning Commission members stating that they have reviewed the preliminarily approved subdivision and have no objections. If such statements are not provided by the applicant, the Town Manager shall proceed with notification. Notices to adjacent property owners shall explain that they have an opportunity to review the proposed subdivision in the Town of Newport offices, to object in writing to the proposal, and to request a public hearing before the Board of Adjustment to appeal the Town Manager's preliminary approval.
- F. If no objections are forthcoming from adjacent property owners, or from any member of the Planning Commission within twenty working days, the Town Manager shall direct the Town Solicitor to prepare a subdivision agreement to be signed by the applicant and the Town Manager. If an request for an appeal is received from any adjacent property owners or Planning Commission members, the Board of Adjustment shall review the subdivision plan and within twenty-five work days, render a decision on the appeal.
- G. Upon receipt of the prepared subdivision agreement, the Town Manager shall issue final approval of the minor subdivision.
- H. After approval the Town Clerk shall certify such approval on the subdivision plot plan which shows distinctly the part to be recorded. The Town Manager shall certify on the approved subdivision plot plan that said plans and related plans comply with all requirements of the



subdivision regulations, and deviations, if any, from the subdivision regulations have been noted and qualified. Five copies of the plan shall be signed and provided to the Town Secretary's for recordation and certification. A copy of the approved plan shall be forwarded to the applicant.

1. Following approval of the subdivision plan by the Town Manager, the subdivider or developer shall prepare the necessary construction improvements plans for approval by the Town in accordance with 601-21 of these regulations. Approval of the subdivision plan by Town Managers shall indicate the Town's approval of the construction improvement plans.

2. If, however, the subdivision plan is not completed in full within five years from the date of approval by the Town Manager, the applicant is required to reapply for subdivision approval to the Town Manager beginning with section (B) above.

- I. Within 15 working days after Town Manager approval, all agreements, easements, and deeds of land concerning the subdivision plan shall be executed and signed by the applicant and the Town Manager.

601-23. Same – major subdivisions.

1. Sketch plan.

A. Submission procedures.

1. The sketch of a proposed subdivision shall be clearly and legibly drawn to the following scale:

one to 20 acres - one inch = 50 feet
21 to 100 acres - one inch = 100 feet
Above 100 acres - one inch = 200 feet

2. A reproducible original and 10 prints shall be submitted to the Town Manager.

B. Required information. The sketch plan shall contain at least the following data, legibly drawn to scale, but not necessarily showing precise dimensions:

1. Approximate tract boundaries and existing and proposed zoning districts accurately labeled.

2. The phrase "sketch plan."



3. Approximate total area in acres.
4. North point, scale and date, including the month, day and year that the original drawing was completed, and the month, day and year that the original drawing was revised, for each revision.
5. Significant planimetric, topographic, and physical features.
6. Proposed general street and lot layout, and proposed utility and drainage easements.
7. Name and address of owner and/or subdivider, and registered civil engineer, professional land surveyor or land planner, if any, responsible for the preparation of the sketch plan.
8. A general location map.
9. Existing street, utility, and drainage easements within the tract and adjacent to it if they have an effect on the development of the proposed subdivision (the information regarding the area adjacent to the proposed subdivision may be obtained from available existing records or other documents or from observation in the files if the adjacent property owner refuses permission to enter onto his land).
10. The approximate location of all proposed structures, number of businesses, or firms.
11. The approximate location, size, and capacity of all proposed off-street parking spaces.
12. The estimated number of dwelling units. Review Procedures.

C. Review procedures.

1. The Town Manager shall within three working days distribute sketch plan copies to the Building Inspector and the Town Engineer. Within five work days of the receipt of the sketch plan, the Building Inspector and the Town Engineer will review and comment to the Town Manager regarding the proposed sketch plan. Concerns, suggestions, requests for additional information should be included in the departmental reviews.
2. If the Building Inspector or Town Engineer determines that a traffic impact study will be necessary for future consideration, the



request for a traffic impact study should be submitted with the departmental comments on the sketch plan. The traffic impact study will comply with the provisions of paragraph (b)(1) (a)(6) below. If a the Building Inspector or Town Engineer determines that a market analysis will be necessary for future consideration, the request for a market analysis study should be submitted in the departmental comments on the sketch plan.

3. Upon receipt of Building Inspector or Town Engineer concerns, the Town Manager shall prepare a written report to the applicant indicating those suggestions, concerns, or problems pointed out by the reviewing departments. This report shall be completed and available to the applicant within 12 work days following the submission of the sketch plan by the developer.

1. Major Subdivision Application.

A. Application and submission procedures.

1. The Town Manager will provide application forms and will provide information to the applicant when requested regarding subdivision procedures. The applicant for subdivision must provide the following:

- a. A completed application for subdivision approval.
- b. An affidavit of ownership which shows the book and page number of each conveyance to the present owner as recorded in the County recorder of deeds' offices.
- c. 10 Copies of a subdivision plan drawn to a convenient scale (one inch = 20 feet through one inch = 100 feet) and showing date, scale, and north point. Each sheet shall be numbered to show its relation to the total number of sheets. The subdivision plan shall include the following information:

- (i) A title consisting of the name of the fee simple or equitable owners(s) of the land to be subdivided, the name(s) and address(es) of the subdivider(s) if different than the owner(s) name, and address of the Delaware registered engineer, land surveyor or architect. The subdivision plan shall bear the certificate, signature, and seal of a Delaware registered engineer, land surveyor or architect.



(ii) A location map drawn to the scale of one inch equals 800 feet indicating the location of the property and its relationship to all streets and other property within 1000 feet of the applicant's property.

(iii) A graphic and written scale along with date, including the month, day and year that the original drawing was completed, and the month, day and year that the original drawing was revised.

(iv) The courses and distances of the boundary line survey on all properties being subdivided. The total area of the parcel in acres.

(v) The proposed name of the subdivision which shall not duplicate the name of any other subdivision in the Town.

(vi) The layout -and approximate dimensions of all proposed lots which will be created by the subdivision and approximate location of proposed buildings.

(vii) The names of all property owners of unsubdivided property within 200 feet of the extreme limits of the subdivision as their names appear in the tax records. In the event that lots adjoin the land to be subdivided, the subdivision name and lot number of the adjoining lot shall be shown. The zoning classification governing the tract and adjoining properties shall be shown.

(viii) Layout of proposed streets, their proposed names, rights-of-way, and paving width, as well as right-of-way and paving widths for proposed alleys and easements for ingress and egress. Except for continuations, street names shall not duplicate existing street names in the Town.

(ix) The location and size of all existing storm sewers, water courses, and natural drainage flows which may influence the design of the subdivision. The approximate location of all proposed storm drainage facilities including, when applicable, retention areas, sewer lines, and drainage ditches.



(x) The location of the open floodway district and floodway fringe, if applicable.

(xi) The location, widths, and names of all existing roads upon which the proposed subdivision will front and within 100 feet of the proposed subdivision.

(xii) Contour lines at vertical intervals of two feet for land with average natural slope of four percent or less, and at intervals of five feet for land with average natural slope exceeding four percent.

(xiii) Location of proposed landscape screening, if applicable.

(xiv) The general location of mature tree stands, if any.

(xv) The location and size of existing water lines which might serve the proposed subdivision; proposed connections with existing water lines and including the approximate location and approximate size of all proposed water lines and water facilities.

(xvi) The location and size of existing sanitary sewer lines; proposed connections with existing sanitary sewer lines including the approximate location and approximate size of all proposed sanitary sewer lines and sanitary sewer facilities.

(xvii) Location of all proposed sidewalks.

(xviii) The approximate dimensions and area of all property proposed to be dedicated or reserved for public open space use, or to be dedicated for use of all property' owners in the subdivision, and the location, dimensions, and purposes of any proposed easements.

(xix) The location of any proposed entrance/exit facilities which provide access for the subdivision to and from a public road.



(xx) Proposed parking areas and number parking spaces where applicable.

(xxi) Identification and boundaries of soils classifications as indicated by the New Castle County Soils Survey.

(xxii) The approximate total area of all land to be used for roads, open space, and building lots expresses in percentage of total land areas.

d. A demographic impact analysis to include, at a minimum, the following information:

(i) Projected population at the completion of each phase of project, if phased, or at completion of project (for residential development).

(ii) Projected population of school-age children (grades K-12) using evaluative criteria developed by the local school district; location of schools serving subdivision.

e. An environmental analysis may be required and, if required, shall include the following information:

(i) Description of the characteristics and limitations of soil as indicated by the New Castle County Soils Survey.

(ii) Description of the recharge capabilities of the site and analysis of the proposed subdivision's impact upon those recharge capabilities.

(iii) Computation of pre and post-development storm water runoff levels.

(iv) Any other substantial adverse environmental effects.

f. A traffic impact analysis may be required and, if required, shall include the following information:

(i) A description of existing traffic volumes on the roads which will be impacted by the subdivision and a description of the present physical condition



of affected roads. The Delaware Division of Highways shall be requested to determine and evaluate the impact area.

(ii) A traffic forecast which projects traffic volumes upon affected roadways five years in the future with and without the completion of the subdivision.

g. A market analysis may be required and, if required, shall include a description of the proposed commercial/industrial development including:

(i) Square footage of gross building areas and sub-areas proposed for commercial or industrial development.

(ii) Known and probable uses.

(iii) Traffic configuration.

(iv) Number of parking spaces required and provided.

(v) The present and/or projected market area and population proposed to be served.

h. The applicant shall provide the following information to assist in the determination of the cost/revenue impact to the Town of the proposed development.

(i) The estimated market value and estimated completion date of the proposed development. If the development is proposed for completion by sections, the estimated market value and-completion dates by section.

(ii) Units per acre.

(iii) Any special conditions which would affect Town costs or revenues.

2. If the major plan submission substantially complies with subsection (a) of this section as to form of the submission, the Town Manager shall acknowledge such compliance, in writing, within five (5) working days from the date of receipt, and at the



same time shall signify the intention of the subdivision advisory committee to review the plan.

3. If the major plan submission does not substantially comply with subsection (a) of this section as to form of the submission, the Town Manager shall notify the subdivider, in writing, within five (5) working days from the date of receipt, of the specific nature of the noncompliance.

4. Upon substantial compliance with subsection (a) of this section, the preliminary major plan may be resubmitted in accordance with this section.

5. An applicant shall be permitted to develop and record the subdivision plan in sections. Upon submission of the subdivision plan and application, the applicant shall indicate in writing any proposed sectional development intended, the sequence of such sectional development, and a proposed time schedule for such development.

6. The completed application and supporting documentation shall be submitted directly to the Town Manager who, in turn, will submit the application and supporting documentation to members of the subdivision advisory committee and any other appropriate agencies such as the Delaware Division of Highways, Soil Conservation Service, and Delaware Geological Survey, Inc.

7. All major subdivision plans must be submitted to the Delaware State Fire Marshall for approval as required by Delaware Law.

B. Review and approval process.

1. 15 copies and original of the subdivision plan shall be submitted to the Town Manager. The Town Manager shall, within three work days, distribute subdivision plan copies to all members of the subdivision advisory committee and shall develop a tentative review time schedule, including a date for the subdivision advisory committee meeting. Within 15 work days of the receipt of the subdivision plan, the departments shall review and prepare written comments for the subdivision advisory committee meeting. The Town Manager shall transmit copies of the subdivision plan to Commissioners and the Planning Commission.

2. The subdivision advisory committee and the developer shall meet to discuss the subdivision plan. Within five work days after the meeting, the subdivision advisory shall make comments



concerning revisions or modifications to the subdivision to the developer or submit the plan with its recommendations to the planning commission.

3. If the subdivision plan violates this ordinance, or the Town of Newport Zoning Ordinance, and the applicant feels the subdivision plan cannot be revised or amended without the applicant enduring an unreasonable and undue hardship, the applicant may apply to the Board of Adjustment for a variance under the guidelines set forth in 601-19 of this ordinance.

4. Within seven work days of the receipt of the subdivision advisory committee recommendations, the Town Manager shall prepare a written report containing the recommendations concerning the subdivision plan. The report should contain revisions to be made by the developer at the request of the subdivision advisory committee. Copies of this report shall be transmitted to the Commissioners, the Planning Commission, and the subdivision advisory committee.

5. The Planning Commission shall review the subdivision plan and within 25 work days issue a recommendation to Commissioners containing its recommendations concerning the subdivision plan. If approved, the Town Solicitor should prepare a subdivision agreement to be signed by the developer and the Town Manager upon approval by Commissioners. If the Planning Commission does not review the subdivision plan within 25 working days, it is deemed a positive recommendation.

6. Upon receipt by the Commissioners of the Planning Commission recommendation, the Commissioners, within a reasonable time, will consider the application at a public hearing. All such hearings shall be advertised in a newspaper of general circulation in the Town not less than ten days prior to any such public hearing. Commissioners, at its discretion, either- prior or subsequent to such public hearing, may request an informal review with the applicant and/or the applicant's engineer, and/or the applicant's legal representative, regarding alterations, changes, or modifications deemed desirable by Commissioners.

7. The subdivision plan and agreement shall be submitted to the Commissioners with a resolution of approval. The resolution, plan, and agreement shall be approved, approved with conditions, or disapproved by Commissioners.



8. Approval shall indicate the Town's approval of the proposed subdivision subject to final approval of the construction improvements plan and approval of the subdivision plan by the State Fire Marshall.

9. Following approval of the subdivision plan by Commissioners, the subdivider or developer shall prepare the necessary construction improvements plan for approval by the Town in accord with 601-21, below.

10. If the subdivision is to be developed in sections, the applicant may complete the construction improvements for each section individually.

11. If, however, the subdivision plan is not completed in full within five years from the date of approval by Commissioners, the applicant is required to reapply for subdivision approval beginning with the subdivision advisory committee's review as described above for the uncompleted sections of the subdivision.

12. Following the approval of the construction improvements plan by the Town, the developer shall prepare a complete subdivision plan (with construction improvements plan) for the recordation.

13. After approval of the subdivision plan and agreement by the Commissioners, the Town Secretary shall certify such approval on the subdivision plot plan which shows distinctively the part to be recorded. The Town Manager shall certify on the approved subdivision plot plan that said plans and related plans comply with all requirements of the subdivision regulations, and deviations, if any, from the subdivision regulations have been noted and qualified. The agreement shall be executed and signed by the applicant and Town Manager and shall constitute a covenant running with the land and binding upon the parties to the agreement and their successors and assigns.

The Town Clerk shall sign the required certification or certifications, as the case may be, and affix the Town seal according to subparagraph (1) or (2) as follows:

a. For a subdivision plot plan approved by the Commissioners to be recorded and developed in its entirety:

["It is hereby certified that this subdivision plot plan was granted 'approval' by the Commissioners of the Town of



DRAFT: November 5, 2004

Newport, Delaware on (date) and accordingly, is eligible for recording in the office of the recorder of deeds for New Castle County, Delaware.

Town Clerk"]

b. For a subdivision plot plan approved to be recorded in sections, certification on separate plans as follows:

["It is hereby certified that the section or sections of this subdivision plot plan distinctly shown hereon as the part to be recorded were granted 'approval' by the Commissioners of the Town of Newport, Delaware on (date) and accordingly, is eligible for recording in the office of the recorder of deeds for New Castle County, Delaware.

Town Clerk"]

14. Notification in writing or action taken by Commissioners will be transmitted to the applicant promptly to the Town Manager.

601-24. Same-construction improvements plan.

A construction improvements plan shall be required upon approval of all major subdivision plans by the Commissioners before construction can begin on a major subdivision site:

1. Submission procedures.
 - A. Five complete sets of construction improvements plans be submitted to the Town Manager and 15 street (horizontal) plans.
 - B. The construction improvement plan shall include:
 1. Streets.
 - a. Horizontal plan.
 - (i) Center line with bearings, distances, curve data and stations corresponding to profile.
 - (ii) Right-of-way and curb lines with radii intersections.
 - (iii) Beginning and end of proposed construction.



(iv) Tie-ins by courses and distances to intersections of all public roads with their names and widths.

(v) Location of all monuments with reference to permanent structures.

(vi) Proposed and existing property lines and ownership of abutting properties.

(vii) Contour lines at intervals not to exceed five feet.

(viii) Location, size, and elevations of drainage structures and public utilities.

(ix) The scale shall be at least one inch equals 50 feet.

b. Profiles.

(i) Profile of existing ground surface along center line and also along both right-of-way lines if required by the Town Manager.

(ii) Proposed center line grade with percent of grade on tangents and elevations at 50-foot intervals, grade intersections, and both ends of curb radii.

(iii) Vertical curve data including length, tangent elevations, and corrections with elevations at 25-foot intervals for sharp vertical curves.

(iv) The scale shall be at least one inch equals five feet vertical and one inch equals 50 feet horizontal.

c. Cross Section.

(i) Right-of-way width and location and width of paving.

(ii) Type, thickness, and crown of paving.

(iii) Type and size of curb.

(iv) Grading of sidewalk area.



(v) Typical location of sewers and utilities with sizes.

(vi) The scale shall be one inch equals one foot vertical and one inch equals ten feet horizontal.

2. Sanitary sewers and storm drains.

a. Horizontal plan.

(i) Location and size of line with stations corresponding to the profile.

(ii) Location and types of manholes or inlets with grades between and elevation of flow line and top of each manhole or inlet.

(iii) Property lines and ownership, with details of easements where required.

(iv) Beginning and end of proposed construction.

(v) Location of laterals, Y's, etc.

(vi) Location of all other drainage facilities and public utilities.

(vii) The scale shall be at least one inch equals 50 feet.

b. Profile (Sanitary sewers and storm drains).

(i) Profile of existing ground surface with elevations at top of manholes or inlets at flow line.

(ii) Profile of storm drain or sewer showing size of pipe, grade, cradle (if any), manhole, or inlet locations.

(iii) The scale shall be at least one inch equals 50 feet horizontal and one inch equals five feet vertical.

(iv) Location of these and all other utilities at points of intersection.



3. Water mains.

a. Horizontal plan.

- (i) Location and side of line with stations corresponding to profiles.
- (ii) Locations of valves, fittings, fire hydrants, and other appurtenances.
- (iii) Property lines and ownership with details of easements where required.
- (iv) Beginning and end of proposed construction.
- (v) Location of service lines, etc.
- (vi) Location of all other drainage facilities and public utilities.
- (vii) Scale shall be at least one inch equals 50 feet.

b. Profile.

- (i) Profile of existing ground surface with elevations valves.
- (ii) Profile of water main showing size of pipe, cover, etc.
- (iii) The scale shall be at least one inch equals 50 feet horizontal and one inch equals five feet vertical.
- (iv) Location of these and all other utilities at points of intersection.

4. Bridges and other improvements. These plans shall contain sufficient information to provide complete working plans for the proposed construction.

5. Certificate. The approved construction improvements plan shall contain the following certificates:

- a. Registered professional engineer making the plan certifying to the accuracy thereof.



b. The applicant certifying his adoption of plan.

c. Signature of Town Manager to plan conforms applicable Town standards.

6. Additional information to be shown.

a. Title as required for the subdivision plan.

b. Courses and distances for the legal description of all property lines shown on the plan.

c. Names of abutting owners.

d. Names, locations, widths, center line courses, distances, and curve data, paving widths and curb lines, right-of-way and curb line radii at intersections of all existing plotted and approved streets, alleys, rights-of-way and easements, and parks and other public places or improvements within the land being subdivided.

e. Location, elevation, material, and size monuments with references to them.

f. Layout and dimensions of lots with lot area to right-of-way line of streets.

g. Location to include elevations and size of sanitary and storm sewers, including manholes, inlets, and building laterals.

2. Review and approval process.

A. The Town Manager shall, within three work days, distribute construction improvements plans to the Town Engineer, Building Inspector, and other departments as required.

B. Each department shall review the construction improvements plan and submit written comments to the Town Manager. To discuss problems identified through departmental review, the Town Manager shall hold meetings with the developer and department directors. This phase of the review and approval process shall be completed in 30 work days.

C. When problems are resolved, all concerned department directors shall, within ten work days, certify that the construction improvements plan



conforms with all city requirements and specifications as well as the approved subdivision plan.

- D. If the construction improvements plan does not conform substantially to the approved subdivision plan, it shall be referred to Commissioners. Commissioners shall either not approve the construction improvements plan and return it to the developer, or approve the plan and forward it to the Town Manager.
 - E. After approval by Commissioners certification by department directors of the construction improvements plan, the developer shall prepare' a complete subdivision plan for recordation.
 - F. Prior to execution by the town of the complete subdivision plan, all easements, deeds, rights-of-way, bonds, etc. shall be provided by the developer to the Town Manager.
 - G. Following the completion in full of the construction improvements, and following appropriate notice to all property owners of record in the subdivision, and prior to their certification and acceptance by the Building Official, the Town may require repairs or reconstruction to the construction improvements.
3. Standard conditions and procedures for construction improvements plan.
- A. Liability insurance. A liability insurance policy in the amount of \$300,000.00/\$500,000.00 per accident, providing full protection of the Town, it's officials, and employees against all damages or claims for damages occurring directly or indirectly by reason of the construction improvements, shall be filed with the Town Manager before any work begins in an approved subdivision.
 - B. Compliance with regulations, codes, etc. Grading, excavation, construction, erection or building shall begin only if in full compliance with these subdivision regulations, the subdivision regulations appendices, the Town Building Code and Zoning Code, Town standard specifications and all other applicable standards and ordinances of the Town of Newport and the laws of the State of Delaware.
 - C. Notice of construction. The Town Manager and/or Building Inspector must be notified 24 hours in advance of the commencement of any construction operation in order that provision may be made for their proper inspection.
 - D. Inspections. The Building Inspector shall coordinate inspection of required improvements during construction. If the Building Inspector finds upon



inspection that any of the required improvements have not been constructed in accordance with the Town standard specifications, the developer shall be responsible for correcting the improvements. Wherever the cost of improvements is covered by a surety guarantee bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

- E. Limited authority for minor alterations. The Town Manager and the Town Engineer shall have the authority to approve minor alterations of construction details as field conditions may require. They shall have no authority to approve changes in boundaries of streets and other areas to which title has been transferred or for which agreement has been made to transfer to the Town.
- F. As-built plans. Upon completion of construction improvements, the developer shall provide the Town Manager one set of reproducible "as-built" detailed plans. The "as-built" plan shall give accurate dimensions locating all subsurface facilities and showing all monuments.
- G. Release of liens. The developer shall, within 90 days after completion of the construction improvements of the subdivision or approved sections, submit a release of liens to the Town Secretary with respect to the construction improvements.
- H. Completion deadline. All construction improvements shall be completed within two years of the date of the recordation of the plan. The Town Manager may grant extensions upon request.
- I. Completion requirements. With the exception indicated below, no Certificate of Occupancy of any dwelling house, building, or structure within the subdivision shall be issued by the Town until all work required by the construction improvements plan shall have been completed in strict accordance with the approved plans and specifications and maintained in a condition acceptable to the Town, except that such Certificates of Occupancy may be issued prior to the completion of black-topping of streets, installing sidewalks, monuments, as-built drawings, and street lights (if applicable), which shall be guaranteed through the posting of a bond in accordance with paragraph (10), below.

1. The following exception to the above requirement may be granted by the Building Inspector with the approval of the Town Manager:

A Certificate of Occupancy may be issued for a dwelling house, building, or structure within the subdivision if that portion of the construction improvements plan related to



that dwelling house, building or structure shall have been completed in strict accordance with the approved plans and specifications and all required completion bonds are posted for black-topping of streets, installing sidewalks, monuments, as built drawings, and street lights. Certificates of Occupancy for no more than 50% of the dwellings, buildings, or structures permitted -in the approved subdivision, or section of the subdivision, shall be issued under this exception. If Certificates of Occupancy are issued under this exception, a bond may be required in accord with paragraph (10) below, for any uncompleted work required in the construction improvements plan within the subdivision or section of the subdivision.

- J. Bonding. Before construction within a subdivision begins, and prior to the issuance of Building Permits, a surety guarantee bond or other security instrument acceptable to a approved by the Town Solicitor shall be posted in the amount equal to 150% of the estimated cost to the Town for work required in the construction improvements plan.
- K. Notification, certification, acceptance and guarantee of construction improvements. Following the inspection and completion in full of the construction improvements, the following shall occur:
 - 1. Appropriate notice to all property owners of record in the subdivision that the construction improvements are under review by the city for certification as complete and ready for use. Such notices shall explain that the property owners may provide comments in writing to the Public Works Department. and/or the Council representative in the district within which the subdivision is located concerning the construction improvements.
 - 2. Certification by the Town Manager that the construction improvements are complete and ready for use according to approved plans and specifications.
 - 3. For a one year period beginning on the date of certification by the Town Manager, the developer shall guarantee to the satisfaction of the city all facilities specified in the construction improvements plan. The developer's surety guarantee bond or other security instrument, required in Section 2721, paragraph (c)(10), shall serve as this guarantee.
 - 4. Following the one year guarantee period, the Town Secretary shall certify that all terms. and conditions of the agreement, including submission of a satisfactory release of



liens, have been met to the town's satisfaction.

5. Following the one year guarantee period and certification by the Town Clerk, the Town Manager shall authorize the release of bonds required in Section 27-21, paragraph (c)(10) of this chapter.

- L. Streets on official map. After their acceptance by Council, the Town Manager shall direct the incorporation of streets on the official Town map.





CHAPTER 602: Property Maintenance **and Code Enforcement**

ARTICLE I: GENERAL PROVISIONS

602-1. Adoption of property maintenance code.

That a certain document, three (3) copies of which are on file in the Office of the Town Manager of the Town of Newport, being marked accordingly and designated as "International Property Maintenance Code ", including Index as published by the International Code Council, Inc., be and is hereby adopted as the Property Maintenance Code of the Town of Newport, in the State of Delaware; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made part hereof, as if fully set out in this Chapter, with the additions, insertions, deletions and changes set forth in Addendum I.

602-2. Inconsistent ordinances repealed.

Prior Ordinance 444 and all other earlier ordinances or parts thereof in conflict herewith are hereby repealed and replaced.





**ADDENDUM I: MODIFICATIONS TO
INTERNATIONAL PROPERTY MAINTENANCE CODE**

602-3. Additions, deletions, insertions and changes.

That the following sections are hereby amended and revised:

1. Section M101.1 Title: Insert the words "Town of Newport, State of Delaware", within brackets in line two.
2. Section M101.1 Title: Add a new subsection as follows:

"M101.1.1 Terms. Whenever in the Property Maintenance Code a municipality or jurisdiction is mentioned and no name is given therefore, the municipality shall be construed to mean the Town of Newport; and when a state is mentioned, the same shall mean the State of Delaware."
3. Section M101.1 Title: Add a new subsection as follows:

"M101.1.2 Conflict. Where there is a conflict between the Town of Newport International Residential Code and any other code or regulations in and for the Town of Newport or the State of Delaware, then the most restrictive shall apply."
4. Section M102.2 Maintenance: Insert the words "Occupant or Tenant" following the words "or the owner's designated agent", in line eight.
5. Amend Section M103 by deleting the title "DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION", and inserting in place thereof the title "DEPARTMENT OF BUILDING INSPECTION". This change shall be made in each place within the code where the title is so indicated and reflect the intent of the Town of Newport to bring this Ordinance within the authority and purview of the Department of Building Inspection and its officers and officials.
6. Delete subsection "M103.1 General" in its entirety and substitute a new subsection to read as follows:

"M103.1 Under the Authority of the Department of Building Inspection. It shall be the intent and purpose of the Commissioners of the Town of Newport that this Ordinance shall be governed by, and under the authority of, the Department of Building Inspection and the executive official in charge thereof Whenever the term "code official" is used herein, the same shall be construed to mean the building inspector, code enforcement officer or any other lawfully designated code officer of the Town of Newport duly empowered to issue permits, collect fees, conduct



inspections of properties, buildings and structures and enforce the correction or abatement of violations of this code."

7. Delete subsection "M103.2-Appointment" in its entirety and without replacement.
8. Delete subsection "M103.3 Deputies" in its entirety and without replacement.
9. Amend subsection "M106.4 Violation penalties", by deleting in its entirety and substitute a new subsection to read as follows:

"M106.4 Violation penalties. Any person, including, but not limited to, landlords and tenants, found to be in violation of any provision contained herein or any order of the building official or code inspector shall be prosecuted within the limits provided by state and local laws and shall be assessed a fine of not less than \$100.00, nor more than \$500.00, per day for a first offense, up to a maximum fine of not less than \$200.00, nor more than \$1000.00, per day for subsequent, offenses, together with the costs and disbursements of prosecution remitted to the Town of Newport in Court 42. Each day's failure to comply with orders issued under this Ordinance after due notice has been served shall be deemed a separate offense. Failure to pay all fines and penalties, inclusive of costs of disbursement of prosecution, within six months from the date of the issuance of a violation will be deemed an outstanding debt owed to the Town of Newport and shall provide the Town of Newport all remedies available at law or in equity."

10. Section M106.4 Violation penalties: Add a new subsection as follows:

"M106.4.1 Issuance of permit to let. Fines and penalties assessed to owners or occupants of property under this Ordinance, including costs and disbursements of prosecution, not paid in full within a period of one year after assessment shall act to prevent and preclude the issuance of an occupancy permit or rental license to owners or operators for the property cited within the violation until said fines and costs are paid in full.

11. Section M107.2 Form: Add a new subsection as follows:

"M107.2.1 Process of appeal. Upon notice of violation as set forth in Section M107.1 and M107.2 of this Ordinance, the person or persons so notified may appeal the violation to the Board of Building Appeals as set forth in Section 112 of the Town of Newport Building Code as established and governed by the provisions set forth in Section 112 of the Town of Newport Building Code."

12. Add to "Section M108.0 UNSAFE STRUCTURES AND EQUIPMENT" the following new subsections to read as follows:



M108.1.5 Vacation of dwellings condemned. Any property, building, structure or dwelling unit condemned as unfit for human habitation under the provisions of this Ordinance shall be vacated within a reasonable time as required by the code official. No owner or operator shall let such premises to any person for human habitation and no person shall occupy any property after the date on which said official has required the affected property to be vacated.

M108.1.6 Use of Condemned Structure(s). No building, premises, structure or dwelling unit which has been condemned as unfit for human habitation shall again be used for human habitation until prior written approval is secured from the building official or code inspector.

M108.1.7 Authorization. The Town of Newport shall have the option to bring an action in Court 42 to compel an owner(s) or operator(s) of a condemned building or structure to make all necessary improvements to the building or structure so that the property is in compliance with the provisions of this Ordinance or to show cause as to why the building or structure should not be demolished. Failure on the part of a property owner to either obey an order to make necessary repairs to the building or structure or challenge a notice to show cause may result in an order for the demolition of the building or structure in the event the building or structure is not salvageable and poses a risk to the safety and welfare of the public. Such an action may be brought 30 days after notice to the owner or operator as provided in Section M1.07.1 of this Ordinance.

M108.1.8 Costs of Demolition to be considered a debt. Any and all expenses incurred by the Town of Newport as a result of an authorized demolition of a building or structure shall be reimbursed to the Town of Newport by the owner or operator of record of the subject building or structure. All owner(s) or operator(s) shall be jointly and severally liable to the Town of Newport for the full amount of funds expended by the Town of Newport.

M108.1.9 Unlawful. It shall be unlawful, pursuant to this Ordinance, for an owner or operator of a building or structure to permit such building or structure to be vacant, boarded up or partially boarded up for a period in excess of 60 days. A first offense shall be punishable by a fine as provided in Section M106.4 of this Ordinance. It shall be within the discretion of the building official or code inspector of the Town of Newport to grant an extension of time to permit a vacant building or structure remain boarded up in excess of 60 days, but no more than six months, if:

- A. The owner or operator of the property submits, in writing, a statement of the specific work in progress or intended, including a



timetable, on the property that will bring the property in compliance with the provisions of this Ordinance; and

- B. The work being performed is continual throughout the entire period that the building or structure remains vacant and boarded up.

M108.1.10 Immunity. Any owner, operator or tenant or any other person who occupies any property which has been condemned as unfit for human habitation pursuant to this Ordinance shall do so at their own risk and the Town of Newport, its agents, employees and officers shall be immune from any damages- suffered to any person for such unlawful occupation and residence. It shall be the sole duty of the owner or operator of such premises to ensure that any structure or dwelling unit which has been condemned is vacated and unoccupied.

13. Amend "Section 111 MEANS OF APPEAL", by deleting line 4 and adding the following:

"provided that a written application for appeal is filed within 10 days after the day that the decision, notice or order was served by the building official."

14. Section M202 GENERAL DEFINITIONS: Insert the words "machinery or parts thereof, household mechanical equipment including water heaters, washing machines, dryer units, dish washers and furnaces" into the definition of Rubbish following the word "dust" in line six.

15. Amend "Section M302.4 Weeds", by deleting lines 1 and 2 and adding the following:

"All premises and exterior property shall be maintained free from weeds or plant growth in excess of 6 inches. Plant, weeds and or grass clippings and other debris shall not be deposited, swept or blown on sidewalks, driveways or on streets."

16. Section M302.4 Exterior Property Areas: Add a new subsection as follows:

"M302.4.1 Property owners are responsible to ensure that tree branches from trees located on their property or on the land located between the curb and the property line of said property shall conform to the following:

- A. The minimum proper clearance height for tree branches hanging over sidewalks in the Town of Newport shall be no less than eight (8) feet as measured from the lowest hanging branch or its appendages.



- B. The minimum proper clearance height for tree branches hanging over roadways in the Town of Newport shall be no less than fourteen (14) feet as measured from the lowest hanging branch or its appendages."
17. Add to "Section M302.9 Defacement of property" the following new subsection to read as follows:
- M302.10 Violations of defacement of property. Any violation of subsection M302.9 shall be governed by and under the authority of all provisions as set forth in Ordinance Number 452 of the Town of Newport prohibiting the act of graffiti and imposing penalties therewith.
18. Section M303.14 Insect Screens: Insert the dates "April 15 and October 15" within brackets at lines 1 and 2.
19. Delete Section "M305 Rubbish and Garbage" in its entirety and substitute and incorporate herein by reference the provisions of Ordinance No. 447, of the Town of Newport titled "An Ordinance to Repeal Ordinance No. 425, and to Restate and Provide for Rules, Regulations and Penalties for the Collection and Disposal of Refuse in the Town of Newport".
10. Add to "Section M404 OCCUPANCY LIMITATIONS" the following new subsections to read as follows:
- M404.8 Inspection of buildings, dwellings and structures; right of entry of enforcement officer. The enforcement officer, building official or code inspector of the Town of Newport is hereby authorized to make inspections to determine the condition of dwellings, dwelling units, hotel_ traits rooming, units, buildings and premises located within the Town of Newport, in order to perform the duty of safeguarding the health and safety of the occupants of dwellings and the general public. For the purpose of making such inspections, the enforcement officer is authorized to enter, examine and survey between the hours of 8:00 a.m. and 5:00 p.m., all buildings, dwellings and structures. The owner or occupant of every such dwelling, etc., shall give the enforcement officer free access to every such dwelling, etc., during such time for the purpose of the inspection provided that such an inspection shall not have the purpose of undue harassment of such owner or occupant and that such inspection shall be made so as to cause the least amount of inconvenience to such owner or occupant
- M404.9 Owner of rental units to designate responsible agent. The provisions of this section and the responsibility of the tenants of single-family rental properties and the designation by the owner of an agent



pursuant to this section shall not abrogate the legal responsibilities of the owner to comply with the provisions of this Ordinance. All tenants lawfully occupying any single-family rental property shall be responsible for the following tasks and the owner of every residential dwelling that consists of two or more rental dwelling units therein shall be required to designate an agent, who may be one of the residents thereof, who shall be responsible for the following:

- A. The removal of empty refuse and garbage collection receptacles or containers from the public right-of-way to a secure location on the property consistent with the provisions of this Ordinance.
 - B. The prompt removal of litter and trash from the premises of the property and from the area of the public right-of-way abutting the property.
- 11. Section M602.3 Heat Supply: Insert the dates "October 15 through April 15" within brackets in line, 5.
 - 12. Add to "Section M602.3 Heat supply", the following new subsection to read as follows:
 - "M602.3.1 Separate services. All dwelling units and apartments, including multiunit apartment buildings, shall each be equipped with individual thermostats for the regulation of heat and/or cool air."



ARTICLE II: ADMINISTRATION

602-4. Compliance required.

All repairs, additions, alterations or replacements to dwellings, dwelling units or premises to bring such dwellings, dwelling units or premises into compliance with this section shall conform to all provisions of this.. Ordinance_ and other ordinances of the Town of Newport governing the construction, replacement, repair or alteration of such dwellings, dwelling units and premises and the facilities and equipment contained therein.

602-5. Severability.

It is hereby declared to be the policy of the Town of Newport that if any section, clause, or phrase of this Ordinance be declared invalid or unconstitutional by the judgment of any court of competent jurisdiction, such invalidity shall not affect the remaining sections, clauses or phrases of this Ordinance.

602-6. Conflicts.

Other ordinances or parts of other ordinances deemed to be in conflict with this Ordinance are hereby repealed and superceded to the extent that other such ordinances or parts of ordinances are in conflict, provided that such repeal shall not abate a right of action already accrued under any repealed ordinance.