

**TOWN OF NEWPORT
NEWPORT, DELAWARE**

ORDINANCE NO. 2016-00 ✓

**AN ORDINANCE TO AMEND THE TOWN OF NEWPORT ZONING CODE & MAP TO
AMEND THE REDEVELOPMENT OVERLAY DISTRICT IN THE GB (GENERAL
BUSINESS) DISTRICT WEST OF ROUTE 141 AND TO PROVIDE MIXED USE
STRUCTURES IN THE REDEVELOPMENT OVERLAY DISTRICT; ALL CONSISTENT
WITH THE 2014 NEWPORT COMPREHENSIVE PLAN**

WHEREAS, pursuant to the Town Charter and Ordinances of the Town of Newport (hereinafter "Newport" and the "Town"), Newport has the power to adopt amendments to the Newport Zoning Code & Map which are consistent with the current Newport Comprehensive Plan (2014);

WHEREAS, the Town has adopted the 2014 Newport Comprehensive Plan, which has been approved by the State of Delaware; and

WHEREAS, the 2014 Newport Comprehensive Plan provides for certain "Recommendations" which the Mayor and Commissioners addressed in the passage of Ordinance 2015-001 to adopt over the next year(s) amendments to the Newport Zoning Code and Map; this is the first Amendment to amend the REDEVELOPMENT OVERLAY DISTRICT (Sections 600-38 through Section 600-44 of the current 2004 Newport Zoning Code.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSIONERS OF THE TOWN OF NEWPORT as follows:

1. The Town of Newport has determined that it is in the best interests of the citizens of the Town of Newport to adopt certain recommendations of the 2014 Newport Comprehensive Plan, which was formally adopted and approved by the State of Delaware.
2. The Town of Newport recommendations related to the amendment

of the Redevelopment Overlay District in its entirety shall be for the purpose of promoting redevelopment, enhancing economic activity, and providing a walkable community and quality of life in a major portion of the Newport GB zoning district consisting of the GB District West of Route 141. The recommendations are consistent with the 2014 Newport Comprehensive Plan certified by the State of Delaware Office of Planning Coordination and the Governor.

3. The Town of Newport Zoning Code (2004) is hereby amended and supplemented as follows:
delete the existing provisions of the REDEVELOPMENT OVERLAY DISTRICT (Sections 600-38 through Section 600-44); and
replace those sections with the New Provisions of the REDEVELOPMENT OVERLAY DISTRICT (Sections 600-38 through Section 600-44.1), which shall only apply to the GB (General Business) District West of Route 141, as follows:

ARTICLE VII: REDEVELOPMENT OVERLAY DISTRICT

600-38. Permitted uses.

1. Library, museum, art gallery, music, theatrical and performing arts.
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, excluding on site cremation services.
4. Churches or other places of worship and Sunday school building.
5. Public and private elementary, junior, senior high schools, day care, pre-school and technical and vocational school facilities.

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, information technology, 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 and nail shops, barbers, health and fitness clubs, weight loss and massage therapy professionals, 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, couriers, private mail and package services.
19. Indoor movie or other theater.
20. Mixed Use Structures subject to the provisions of Section 600-44.1 below.
21. Woodworking and sign-making
22. Tourist centers, hotels and motels.
23. Social club, fraternal, social service, union or civic organization

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. 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.
5. Public mass transit (bus) stops for loading and unloading passengers.

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.
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.
11. Exterior lighting Plan with details and specifications.
12. The Plan shall be signed and sealed by a Registered Land Surveyor and/or Professional Engineer.

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, provided however Mixed Use Structures shall have a height limit of fifty-eight (58) feet as set forth below.
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 setback. Maximum front setback depth is fifteen (15) feet.
7. Rear setback. There shall be a rear setback 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 Manager, Newport Building Inspector, Board of Adjustment, and the Commissioners of Newport (by majority vote) 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.

600-44.1 MIXED USE STRUCTURE requirements are as follows:

1. The Mixed Use Structure provisions shall only apply in the Redevelopment Overlay District, which is in the GB (General Business) District West of Route 141, as shown on the Newport Zoning Map (as amended herewith).
2. Mixed Use Structures are permitted. Mixed use definition – a mixed use structure is a building containing a mix of residential and commercial uses – with retail and office/commercial uses on the lower floors with residential above – that affirm Smart Growth Principles, including, but not limited to, stronger neighborhood character; integration of housing, workplace, retail, institutional, service and other destinations and uses; and pedestrian-friendly/bicycle friendly environments in order to create what Planners term a ‘walkable community’.
3. Mixed Use Structure Requirements: 1st floor must be all office and/or retail/commercial and some interior parking, as warranted. Residential uses shall be permitted on all floors except the first /ground level floor. The office and/or retail/commercial uses may be on floors above the first floor. The office retail/commercial use must have frontage on at least one street. Portions of the Mixed Use Structure that have interior parking must appear enclosed and match or be in harmony with facades of existing structures. All office and/or retail/commercial uses are defined as set forth above in section 600-38 and 600-39 above, incorporated herein by reference.
4. Mixed Use Structure Building Height: 58 feet, with no more than five (5) floors, excluding sub-grade/interior parking and non-human accessory exclusions.

Building Height shall be measured as follows: The vertical distance measured in the case of flat roofs from the average level of adjacent ground at the street frontage property line to the highest point of the roof beams adjacent to the street wall, and in the case of pitched roofs from the average level of adjacent ground at the street frontage property line 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 average level of adjacent ground at the street frontage property line to the level of the highest point of those structures.

Notwithstanding any other section of this code, spires, cupolas, chimney, antennas, water tanks, belfries, flag staffs, hose towers or other structures and mechanical apparatus placed above roof level, not intended for human occupancy and necessary for the operation of the permitted use, shall not be included in the measurement of vertical dimensions, provided however, all such structures shall not exceed 75 feet in height without approval from the Board of Adjustment.

5. Setbacks: A Mixed Use Structure and parcel shall be permitted to eliminate side setback requirements so as to preserve development flexibility. The front and rear setback shall be 5.0 feet.

Provided however, setbacks are required for those Mixed Use Structures and Parcels that abut any parcel with a Residential zoning classification (R-1, R-2 and R-3):

- For Mixed Use Structures and Parcels abutting any R-1 or R-2 parcel, side and rear minimum setback shall be 10 feet (current code)
- For Mixed Use Structures and Parcels abutting any R-3 parcel, side and rear minimum setback shall be 5 feet.
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6. Mixed Use Structures and Parcel Landscaping & Lighting

Landscaping:

Mixed Use Structures and Parcels shall provide, at a minimum, for Street Trees as submitted by a Registered Landscape Architect with a 3.5" DBH (diameter of trunk at breast height) and a one year guarantee. The variety and Street Tree specification shall be approved by the Town of Newport as set forth in Section 600-44 above.

Lighting:

Adequate lighting of driveways, parking lots, walkways, and other public, semi-public and employee areas shall be provided in accordance with illuminating engineering standards. Exterior lighting shall eliminate excessive light spill-over and glare on motor vehicles, pedestrians, and land uses within the light source's proximity.

7. Mixed Use Structure and Parcel Parking:

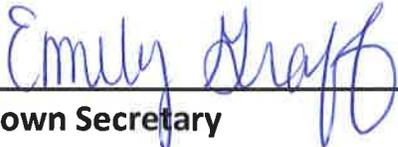
One (1) off-street parking space per residential dwelling unit plus one (1) off-street visitor space for every ten (10) residential units plus the normal applicable sections of 600-89 for office, retail/commercial component of mixed use structures. The total of the above components shall be the required off street parking necessary.

8. Non-use of Residential Definitions. For the purpose of this Mixed Use Structure and Parcel section (namely Section 600-44.1) the following definitions shall not apply to any residential portion of the Mixed Use Structure or Parcel permitted as a Residential Use under this Section- 600-44.1:

apartment complex
boarding house
dwelling, multi-family
dwelling – row
garden apartments
high rise apartments
town house

4. The Town of Newport Zoning Map shall be amended to add the Redevelopment Overlay District, which shall consist of the areas shown as the GB (General Business) District West of Route 141.
5. If any section, clause, or phrase of this Ordinance shall 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.
6. Other ordinances or parts of other ordinances deemed to be in conflict with this Ordinance are hereby repealed and superseded 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.
7. The Town Secretary shall certify to the adoption of this Ordinance and this Ordinance shall take full force and effect immediately after the date of final passage.

THE MAYOR AND COMMISSIONERS OF THE TOWN OF NEWPORT HEREBY ADOPT THIS ORDINANCE THIS 17 DAY OF NOVEMBER, 2016.



Town Secretary



Mayor



Town Solicitor



Commissioner



Commissioner

FIRST READING 10-20-16



Commissioner

PUBLIC HEARING & SECOND
READING: 11-17-16



Commissioner