

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

LAND USE ORDINANCE OF THE TOWN OF NEWPORT, MAINE

SECTION I: GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known and may be cited as the “Land Use Ordinance of the Town of Newport, Maine,” and will be referred to herein as the “Ordinance”

B. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, Sections 4351 and 4352, of the Maine Revised Statutes Annotated.

C. PURPOSES

The purposes of this Ordinance are as follows:

1. COMPREHENSIVE PLAN IMPLEMENTATION

To implement the policies and recommendations of the Town of Newport Comprehensive Plan;

2. PRESERVATION OF THE TOWN CHARACTER

To preserve and protect the character of Newport by dividing the Town into neighborhood districts according to the use of land and buildings and the intensity of such uses;

3. PROTECTION OF THE GENERAL WELFARE

To assure the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of Newport;

4. PROTECTION OF THE ENVIRONMENT

To protect and enhance the natural, cultural, and historic resources from unacceptable adverse impacts and to integrate new developments harmoniously into the Town’s natural environment;

5. PROMOTION OF COMMUNITY DEVELOPMENT

To promote the development of and economically sound and stable community;

6. REDUCTION OF TRAFFIC CONGESTION

To lessen the danger and congestion of traffic on roads and highways, limiting excessive numbers of intersections, driveways, and other friction points, minimizing hazards, and insuring the continued usefulness of all elements of the existing transportation system for their planned function;

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION I: GENERAL PROVISIONS (cont.)

2. BALANCING OF PROPERTY RIGHTS

To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this Ordinance with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from noise, smoke, dust, fumes, odor, glare, traffic, storm water runoff, or the pollution of ground or surface water resources;

3. REDUCTION OF FISCAL IMPACT

To provide the means of evaluating development proposals for their fiscal impact on the municipality's ability to provide and improve necessary public facilities and services; and

4. ESTABLISHMENT OF PROCEDURES AND STANDARDS

To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluation such developments; to provide a public hearing process through which town residents may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance to the Board of Appeals.

D. APPLICABILITY

This Ordinance shall apply to all land areas within the Town of Newport. All buildings or structures hereinafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land including the divisions of land, in the Town of Newport, shall be in conformity with the provisions of the Ordinance. No buildings, structure or land are shall be used for any purpose or in any manner except as provided for in this Ordinance.

E. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, the most restrictive or that imposing the higher standard shall govern.

F. SEVERABILITY

In the event that any section, subsection, or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION I: GENERAL PROVISIONS (cont.)

G. AMENDMENTS

1. INITIATION

An amendment to this Ordinance may be initiated by:

- a. The Planning Board provided a majority of the board has so voted
- b. Request of Board of Selectmen to the Planning Board, or
- c. Written petition of 10% of the number of registered voters who voted in the most recent gubernatorial election.

2. HEARINGS

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board shall hold a public hearing on any proposed amendment. Within 30 days of receiving a proposed amendment, the Planning Board shall make a written recommendation to the Board of Selectmen.

3. MAJORITY VOTE

After receiving the recommendation of the Planning Board, by a majority of members present, the amendment shall be adopted or rejected by the majority vote of the voters at a Town Meeting.

4. SHORELAND ZONING

The appropriate State agency shall be notified of amendments to this Ordinance within thirty (30) days after the effective date of such amendments to determine conformance with the State Shoreland Zoning Law and guidelines where and if appropriate.

H. ANNUAL ADMINISTRATIVE REVIEW

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually to the Town Manager and Board of Selectmen on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Manager and board of Selectmen shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and
2. Enhance the implementation of the purposes of this Ordinance contained in subsection C, paragraphs 1 through 9, above.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION I: GENERAL PROVISIONS (cont.)

I. EFFECTIVE DATE

The effective date of this Ordinance, when adopted, and any amendments thereto, shall be effective immediately following its/their adoption or approval at Town Meeting or Special Town Meeting. A copy of this Ordinance shall be certified by the Town Clerk and shall be on file with the Town Clerk.

J. REPEAL OF PRIOR ORDINANCE

The existing Zoning Ordinance for the Town of Newport, Maine enacted March 4, 1985, as amended, are repealed as of the effective date of this Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any violation of the Ordinances repealed by this section, if the violation is also a violation of the provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is, held to be invalid or void in its entirety, that the Ordinances repealed by this Section shall be automatically revived.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

A. BURDEN OF PROOF

The burden of establishing that any non-conforming structure, use, or lot is a lawfully existing non-conforming structure use or lot as defined in this Ordinance shall, in all instances, be upon the owner of such non-conforming structure, use, or lot and not upon the Town of Newport.

B. CONVERSION TO CONFORMANCE ENCOURAGED

Owners of all existing non-conforming structures and uses shall be encouraged to convert such existing non-conforming structures and uses to conformance wherever possible and shall be required to convert to conforming status as required by this ordinance.

C. CONTINUANCE

The use of any building, structure, or parcels of land, which is made non-conforming by reason of the enactment of this ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

1. EXISTING NON-CONFORMING USES OF LAND

Continuance of non-conforming uses of land shall be subject to the following provisions:

- a. An existing non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;

SECTION II: NON-CONFORMING STRUCTURES, USES OF LAND-cont.

- b. If any non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
- c. A non-conforming use may be moved within the boundaries of the lot provided that the Planning Board finds that the change in location on the lot meets all the following standards:
 - (1) Location and character;
 - (2) Fencing and screening;
 - (3) Landscaping, topography, and natural features;
 - (4) Traffic and access;
 - (5) Signs and lighting

2. EXISTING NON-CONFORMING STRUCTURES

Continuance of non-conforming structures shall be subject to the following provisions:

- a. No such structure shall be enlarged or altered in any way that increases its non-conformity;
- b. Should any structure, exclusive of the foundation, be destroyed, or damaged by any means, exclusive of planned demolition, said structure may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year; and
- c. A non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is appropriate in regards to meeting the following standards:
 - (1) Location and character;
 - (2) Fencing and screening;
 - (3) Landscaping, topography, and natural features;
 - (4) Traffic and access;
 - (5) Signs and Lighting

SECTION II: NON-CONFORMING STRUCTURES, USES OF LAND-cont

3. EXISTING NON-CONFORMING USES OF STRUCTURES

Continuance of a non-conforming use of a structure shall be subject to the following provisions:

- a. No structure devoted to a non-conforming use shall be enlarged or extended;
- b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption of amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;
- c. Any non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more consistent with the District's purpose than the existing non-conforming use;
- d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed
- e. If any such non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall comply with standards specified by this Ordinance for the district in which such structure is located; and
- f. A structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be more appropriate location, provided that the Planning Board finds that the change in location is appropriate in regards to meeting the following standards:
 - (1) Location and character;
 - (2) Fencing and screening
 - (3) Landscaping, topography, and natural features;
 - (4) Traffic and access;
 - (5) Signs and lighting

4. CONSTRUCTION BEGUN PRIOR TO ORDINANCE

This Ordinance shall not require any change in plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided application has been subject to substantive review, or a permit that has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of such permit.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS-cont.

5. NON-CONFORMING LOTS OF RECORD

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map recorded in the Registry of Deeds which at the effective date of adoption or subsequent amendment of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance are met.

6. TRANSFER OF OWNERSHIP

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION III: ESTABLISHMENT OF DISTRICTS

A. DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Newport is hereby divided into the following districts.

1. Mixed Residential 1 District (MR1)
2. Mixed Residential 2 District (MR2)
3. Commercial/Industrial District (C/I)
4. Commercial District (C)
5. Rural District (R)
6. Nokomis Pond Water District (WD)
7. Village District (V)

B. STANDARDS ESTABLISHING DISTRICTS AND DISTRICTS DESCRIPTIONS

1. MIXED RESIDENTIAL 1 DISTRICT (MR1)

a. PURPOSE

The purpose of the Mixed Residential 1 District is to provide an area for high density residential and commercial development designed to be consistent with the performance standards of this Ordinance.

b. AREAS INCLUDED

The location of the Mixed Residential 1 District is illustrated on the Official Zoning Map of the Town of Newport

2. MIXED RESIDENTIAL 2 DISTRICT (MR2)

a. PURPOSE

The purpose of the Mixed Residential 2 District is to provide an area to accommodate future residential development near and adjacent to existing facilities.

b. AREAS INCLUDED

The location of the Mixed Residential 2 District is illustrated on the Official Zoning Map of the Town of Newport.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION III: ESTABLISHMENT OF DISTRICTS- cont.

3. COMMERCIAL/INDUSTRIAL DISTRICT (C/I)

a. PURPOSE

The purpose of the Commercial/Industrial District is to identify a suitable area of the community, conveniently located with respect to transportation and municipal services.

b. AREAS INCLUDED

The location of the Commercial/Industrial District is illustrated on the Official Zoning Map of the Town of Newport.

4. COMMERCIAL DISTRICT (C)

a. PURPOSE

The purpose of the Commercial District is to identify those areas of the community which have historically developed commercially and to identify areas of the community which are suitable for future commercial development to the extent that development sprawl is minimized.

b. AREAS INCLUDED

The location of the Commercial District is illustrated on the Official Zoning Map of the Town of Newport.

5. RURAL DISTRICT (R)

a. PURPOSE

The purpose of the Rural District is to preserve an area of the town that has traditionally been agricultural and includes open fields, pastures, and stands of trees. The district is intended to protect specific quality of life features that make rural areas desirable for residential development. The area is characterized by large properties, farmsteads, and family homesteads. The soils in this area are generally viewed as being poor in respect to drainage and the use of individual septic systems. Therefore this district is considered to be the best suited to large lots, single family dwellings, farms and open space pasture lands.

b. AREAS INCLUDED

The location of the Rural District is illustrated on the Official Zoning Map of the Town of Newport.

SECTION III: ESTABLISHMENT OF DISTRICTS-cont

6. NOKOMIS WATER POND DISTRICT (WD)

a. PURPOSE

The purpose of the Nokomis Water Pond District is to protect the Nokomis Pond water reservoir. This district extends 1,000 feet from the high water mark of Nokomis Pond. Any development within this area, in addition to meeting the performance standards within this Ordinance, must be reviewed by the Newport Water District for determination of its impact on the water resource. This will help insure the continued protection of the Town's water supply from possible groundwater contamination.

b. AREAS INCLUDED

The location of the Nokomis Water Pond District is illustrated on the Official Zoning Map of the Town of Newport.

7. VILLAGE DISTRICT (V)

a. PURPOSE

The purpose of the Village District is to accommodate existing residential, commercial and in-home business occupations and provide an are of similar development which is consistent with the performance standards of this Ordinance.

b. AREAS INCLUDED

The location of the Village District is illustrated on the Official Zoning Map of the Town of Newport.

C. OFFICIAL ZONING MAP

Districts established by this Ordinance are bounded and defined as shown on the Official "Land Use Zoning Map of Newport, Maine" the following rules of interpretation shall apply:

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk, and on file in the office of the Town Clerk.

D. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the official "Land Use Zoning Map of Newport", the following rules of interpretation shall apply:

SECTION III: ESTABLISHMENT OF DISTRICTS-cont

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right of ways shall be construed as following such center lines;
2. Boundaries indicated as approximately following shore lines of any lake or pond shall be construed as following the normal high water mark;
3. Boundaries indicated as being extensions of center lines of streets shall be construed to be extension of such center lines;
4. Boundaries indicated as approximately following the center lines of streams, rivers, or other continuous flowing water courses shall be construed as following the channel center line of such watercourses;
5. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by scale of the map;
6. Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.

E. DIVISION OF LOTS BY DISTRICT BOUNDARIES

In the event that a District boundary line divides a lot or parcel of the same ownership of record, at the time such line is established by adoption of subsequent amendment of this Ordinance, the Planning Board, after written finding of fact, that such extensions will not create unreasonable adverse impacts on the existing uses of the adjacent properties, may

- a. When that portion of the lot which is located in the more restrictive District is greater than ten (10) acres, extend the regulations applicable to the less restrictive portion into no more than twenty percent (20) of the more restrictive portion.
- b. When that portion of the lot which is located in the more restrictive District is less than ten (10) acres, extend the regulations applicable to the less restrictive portion into no more than fifty percent (50) of the more restrictive portion.
- c. When that portion of the lot which is located in the more restrictive District is equal to that which is located in the less restrictive District, extend the regulations applicable to the less restrictive portion to all of the more restrictive portion.
- d. Except that, no such extensions shall be granted by the Planning Board into any Protection Districts.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION III: ESTABLISHMENT OF DISTRICTS-cont

F. AMENDMENTS TO DISTRICT BOUNDARIES

The Board of Selectmen, of its own initiative, and the Planning Board or any property owner may petition, for a change in the boundary of any District. No change in a

District boundary shall be approved without a duly authorized majority vote at a Special or Annual Town Meeting. A warrant article shall not be presented for consideration without written findings of fact upon substantial evidence that:

1. The change would be consistent with: the standards of the District boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and
2. The change in District boundaries will satisfy a demonstrated need in the community and will have no undue adverse impact on existing uses or resources; or that new District designation is more appropriate for the protection and management of existing use and resources within the affected area. The Board of Selectmen will not act upon petition for a change in District boundaries unless notice is first given to all owners of land abutting or located within 1000 feet of the parcel for which a change in boundaries is sought. The Board of Selectmen may require, as a part of any petition for a change in District boundaries, that the petitioner submit the names and addresses of all such surrounding landowners as well as notify all registered voters.

SECTION IV: SCHEDULE OF USES

A. ACTIVITIES DESCRIBED

A matrix listing the uses permitted in the various Districts, under this Ordinance begins on page 14.

The various land uses contained in the matrix are organized according to the following six (6) activity classifications:

1. Resource Extraction Activities
2. Residential Activities
3. Institutional Activities
4. Commercial Activities
5. Industrial Activities
6. Transportation and Utilities

SECTION IV: SCHEDULE OF USES- cont

A. SYMBOLS USED IN SCHEDULE OF USES

The following contained in the Schedule of Uses have the following meanings:

1. DISTRICT SYMBOLS

SYMBOL	DESCRIPTION
V	Village District
MR-1	Mixed Residential 1 District
MR-2	Mixed Residential 2 District
C/I	Commercial/Industrial District
C	Commercial District
R	Rural District
WD	Nokomis Pond Water District

2. PERMIT SYMBOLS

SYMBOL	DESCRIPTION
Y	Uses Allowed Without a Permit
N	Uses Prohibited Within District
C	Use Requires a Code Enforcement Permit
P	Use Requires a Planning Board Permit

B. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED

1. USES ALLOWED WITHOUT A PERMIT: Uses substantially similar to those allowed without a permit, but are not listed in the Schedule of Uses, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to such uses.
2. USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT: Uses substantially similar to those requiring a Code Enforcement Officer Permit, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES-cont

3. **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board Permit, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

D. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED

Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses, shall be prohibited.

E. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED

All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V

F. SCHEDULE OF USES-MATRIX

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
1. RESOURCE EXTRACTION ACTIVITIES								
a.) Commercial timber harvesting	C	C	C	C	C	C	N	N
b.) Production of Commercial Agricultural Products	N	N	C	C	C	C	N	N
c.) Mineral extraction not associated with permitted development, affecting an area of less than 2 acres in size;	C	C	C	C	C	C	P	N
d.) Mineral extraction operations for any purpose affecting an area of 2 acres or greater in size except when associated w/permitted development	N	N	P	P	N	P	N	N
e.) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells	C	C	C	C	C	C	P	C
f.) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	C	C	C	C	C

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
2. RESIDENTIAL ACTIVITIES								
a.) Single-family Detached dwelling	C	C	N	N	N	C	C	C
aa. Condominium / Town Houses	P							
b.) Single-family Mobile Home	C	C	N	N	N	C	C	C
c.) Multi-family Dwelling: duplexes	C	C	N	N	N	C	N	C
d.) Multi-family Dwelling: 3 or more families, including apartments;	P	N	N	N	N	P	N	P
e.) Mobile home parks;	P	P	N	N	N	N	N	P
f.) Nursing Home/Boarding Care Facility	P	N	N	N	N	P	P	C
g.) Home Occupations;	C	C	C	C	C	C	C	C
h.) In-Law apartments;	C	C	N	N	N	C	C	C
i.) Group homes with up to 3 residents	C	C	N	N	N	C	C	C
j.) Group homes with more than 3 Residents	P	P	N	N	N	P	P	P
k.) Accessory uses or structures that are essential for the exercise of uses listed above.	C	C	N	N	N	C	C	C

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
3. INSTITUTIONAL ACTIVITIES								
a.)Hospital	P	P	N	N	N	N	N	N
b.) Medical Clinic, Facilities and Services	C	C	P	N	N	N	N	N
c.) Government Facilities & Services	C	C	P	N	P	P	N	C
d.)Public Schools	P	P	N	N	N	P	P	P
e.)Private Schools (under 15 students)	C	C	N	N	N	P	P	C
f.)Day Care Centers	C	C	P	N	P	C	P	C
g.) Churches	C	C	N	N	N	C	N	C
h.)Cemetery	P	P	N	N	N	P	N	N
i.) Fraternal organizations	P	N	N	N	P	P	N	P
j.) Community Center	P	N	N	N	P	P	N	P
k.) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	N	C	C	C	C
l.) Addiction Treatment Facilities	N	N	N	N	P	N	N	N
m.) Marijuana Dispensing Facilities	N	N	N	N	P	N	N	N

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
4. COMMERCIAL ACTIVITIES								
a.) Automobile supplies	P	N	P	N	C	N	N	C
b.) Automobile Body Repair	P	N	P	N	P	N	N	P
c.) Automobile Repair/Service	P	N	P	N	P	N	N	P
d.) Banks/Credit Unions	P	N	N	N	C	N	N	C
e.) Beauty Shops	C	N	N	N	C	N	N	C
f.) Sporting Camps	N	N	N	N	N	P	N	N
g.) Clothing Store	C	N	P	N	C	N	N	C
h.) Fireworks Sales	N	N	P	N	P	N	N	N
I.) Craft Shops	C	N	N	N	C	N	N	C
j.) Florist shop/Greenhouse	C	N	P	N	C	C	N	C
k.) Fuel Oil Sales	C	N	P	C	C	N	N	C
l.) Funeral Homes	C	N	N	C	C	N	N	C
m.) Professional Offices	C	N	P	C	C	N	N	C
n.) Professional Offices Complex	C	N	P	C	C	N	N	C
o.) Pharmacy	C	N	N	C	C	N	N	C
p.) Restaurant	P	N	P	C	C	P	N	C
q.) Animal Hospital/Clinic	N	N	P	C	C	P	N	C

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES

-(cont.)

SCHEDULE OF USES-MATRIX

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
4. COMMERCIAL ACTIVITIES(cont)								
q.) Take-Out Restaurant (no interior seating.)	C	N	N	N	C	C	N	C
r.)Recreation Vehicle Sales & Service	P	N	P	N	C	N	N	C
s.) Automobile Sales	P	N	P	N	C	N	N	C
t.) Boarding Kennels	N	N	N	N	P	P	N	N
aa. Commercial Kennels	N	N	N	N	P	P	N	N
u.) Bed and Breakfast	C	C	N	N	C	C	N	C
v.) Motel, hotels, Inns, maximum of ten rooms	N	N	P	N	C	N	N	C
w.) Motel, hotel and Inns, more than ten rooms	N	N	P	N	P	N	N	P
aa.) Campgrounds	N	N	N	N	N	P	N	N
bb.) Retail Establishments of more than 5,000 square feet	N	N	P	N	P	N	N	P
cc.) Retail Establishments less than 5,000 square feet, not listed above	C	N	P	N	C	N	N	C
dd.) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	C	C	C	N	C
ee.) Self-storage buildings	N	N	C	C	C	N	N	N
ff.) Sales and service of motor homes and camper trailers	P	N	P	N	C	P	N	C

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
5. INDUSTRIAL ACTIVITIES								
a.) Lumber yard, sawmill	N	N	P	P	N	C	N	N
b.) Transportation Facility and Terminal Yard	N	N	P	P	N	N	N	N
c.) Bulk Oil and Fuel Tank Storage in excess of 50 gallons except for on-site heating and cooking purposes	N	N	P	P	N	N	N	N
d.) Salvage and Recycling Facility	N	N	P	P	N	N	N	N
e.) Wholesale Business Facility	N	N	P	P	N	N	N	N
f.) Light manufacturing Facility	N	N	P	P	P	N	N	N
g.) Disposal of Solid Waste	N	N	P	P	N	P	N	N
h.) Sewage Treatment Facility	N	N	N	P	N	P	N	N
i.) Wood Products Manufacturing Facility	N	N	P	P	N	N	N	P
j.) Print/Publishing Facility	N	N	P	P	N	N	N	P
k.) Warehousing Facility	N	N	P	P	N	N	N	P
l.) Distributing Facility	N	N	P	P	N	N	N	P
m.) Processing Facilities (industrial)	N	N	P	P	N	N	N	N
n.) Processing Facilities (agricultural)	N	N	P	P	P	P	N	N
o.) Accessory uses and structures that are essential for the exercise of uses listed above	N	N	P	P	P	P	N	N

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

Activities/Districts	MR1	MR2	C/I	I	C	R	WD	V
6. TRANSPORTATION & UTILITIES								
a.) Land management roads with water crossings of minor flowing waters.	C	C	C	C	C	C	N	C
b.) Land management roads with water crossings of standing waters and of major flowing waters.	C	C	C	C	C	C	N	C
c.) Road construction projects, other than land management roads, and not part of a project requiring a Planning Board permit	C	C	C	C	C	C	N	C
d.) Road construction projects, other than land management, which are part of projects requiring Planning Board Review	P	P	P	P	P	P	N	P
e.) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops.	P	P	P	P	P	P	P	P
f.) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	C	C	C	P	C

SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

The purpose of the regulations contained in this section is to allow maximum utilization of land while insuring against adverse impacts on environment, neighboring properties, and the public interest. This assurance is provided by separating the area of the Town of Newport into districts and permitting specific land use within each, provided that a use meets all the additional criteria specified in this Ordinance.

This regulatory approach has been termed “performance zoning” because it permits a use to be developed on a particular parcel only if the use on that parcel meets “performance” standards which have been enacted to insure against the use causing (or having the potential to cause) adverse impacts.

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board.

In review applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances the burden of proof shall be upon the applicant.

A. GENERAL STANDARDS

1. ACCESSORY USES

An accessory use shall not include any use injurious or offensive to the neighborhood as initially determined by the Code Enforcement Officer.

2. ACCESS REQUIREMENTS

All road entrances, curb cuts, and driveways shall be designed considering land topography, street design, and existing and expected traffic patterns, so as to promote to the greatest extent possible, safe pedestrian and vehicular traffic and to protect public safety. All applicants must adhere to Title 17, Chapter 299 for all entrances, curb cuts, and driveways that are to be constructed on a State Roadway. All such construction on a town way shall be in compliance with the Town of Newport Street Opening and Curb Cut Ordinance.

SECTION V: LAND USE STANDARDS –(cont.)

2. A. Addiction Treatment Facilities and Marijuana Dispensing Facilities: To insure the health, safety and welfare of the general public, users of such facilities and neighboring properties, the following requirements shall be met:

- a. Facility shall not be located within 1,000 feet of any school or daycare center;
- b. The Facility shall serve no more than one patient per 25 square feet of building area of the principal building;
- c. The Facility must meet the following off street parking requirements: 1 parking space for every 3 patients, plus one for each employee based on the average employee occupancy;
- d. The Planning Board shall hold a Public Hearing before acting on any application for such a facility.

3. AGRICULTURAL MANAGEMENT ACTIVITIES

Agricultural practices shall be conducted in such a manner to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and Maine Soil and Water Conservation Commission in July 1972, and as this may be amended or superseded.

4. AIR POLLUTION

It shall be unlawful within the Town of Newport for any person to discharge into the atmosphere soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid or gaseous matter or other materials, in such a manner as to constitute atmospheric pollution in excess of the performance standards as established by the Maine State Department of Environmental Protection as may be amended from time to time.

5. BUFFERS

Buffer strips may be required for the following areas and/or purposes:

- a. Along the property line where the reviewing authority (Code Enforcement Officer or Planning Board) determines it desirable and necessary to accomplish the following:
 - a. To shield incompatible uses from one another;

SECTION V: LAND USE STANDARDS –(cont.)

- b. To block prevailing winds to stop wind borne debris from leaving development site;
- c. To prevent any proposed lighting from interfering with residential properties or with safe driving;
- d. gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas, and loading and unloading areas.

6. CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed development shall be in conformity with the Comprehensive Plan and Policy Statements of the Town contained within the Plan and with the provisions of all pertinent local ordinances and regulations, State, and Federal laws and regulations.

7. CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, and locally adopted Floodplain Management Ordinance, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

8. CONVERSIONS

Conversions of existing structures into multi-family units, in Districts permitting multi-family dwellings, may be permitted provided that:

- a. Off-street parking for two(2) vehicles per dwelling unit plus maneuvering space will be provided;
- b. Approval of conversion plans by the fire, electrical, and plumbing inspector(s) is required prior to issuance of land use permit;
- c. Each dwelling unit shall be at least three hundred and fifty (350) square feet in area for one (1) bedroom units plus one-hundred and fifty (150) square feet for each additional bedroom; and
- d. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit.

SECTION V: LAND USE STANDARDS –(cont.)

9. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS

- a. Emission of odors, dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property must comply with State and Federal standards.
- b. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines into neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.
- c. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Section 30, 58 and 59A.
- d. No land use or establishment shall be permitted to produce noise levels beyond its lot lines as to cause adverse impact upon the neighboring properties.

10. EROSION AND SEDIMENTATION CONTROLS

The following measures relating to conservation, erosion, and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance.

- a. the procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean- up stage; and
- b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
 1. Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;
 2. Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont.)

3. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
4. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
5. The disturbed area and the duration of exposure shall be kept to the practical minimum;
6. Disturbed soils shall be stabilized as quickly as practicable;
7. Temporary vegetation or mulching shall be used to protect disturbed areas during development;
8. Permanent (final) vegetation and mechanical erosion control measures in accordance with the provisions of the Department of Environmental Protection's Best Management Practices for Erosion and Sedimentation Control or the Mine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;
9. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
10. The top of the cut or bottom of a fill section shall not be closer than ten (10) feet to an adjacent property, unless otherwise specified by the Planning Board.
11. During grading operations, methods of dust control shall be employed wherever practicable
12. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair and damage at his expense as quickly as possible;
13. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

SECTION V: LAND USE STANDARDS –(cont.)

11. HOME OCCUPATIONS

- a. The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the districts in which they are allowed. home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structure;
- b. Any home occupation or profession which accessory to and compatible with a residential use may be permitted if:
 - (1) It is carried out in a dwelling unit or in a structure customarily accessory to a dwelling unit;
 - (2) It is conducted only by a member or members of the family residing in the dwelling unit; and
 - (3) It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.
- c. All home occupations shall conform with the following conditions:
 - (1) The home occupation shall be carried on wholly within the dwelling or accessory structure;
 - (2) The home occupation shall be conducted only by a member or members of the family residing in the dwelling unit;
 - (3) There shall be no exterior display, no exterior signs other than those permitted in Section V, no exterior storage of materials, and no other indication of the home occupation or variation from the residential character of the principal building;
 - (4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odor, heat, glare, or activity at unreasonable hours, shall not be permitted;
 - (5.) The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood;
 - (6.) In addition to the off-street parking provided to meet the normal

SECTION V: LAND USE STANDARDS –(cont.)

requirements of the dwelling, adequate off –street parking shall be provide for the vehicles of the maximum number of users the home occupation may attract during peak operating hours;

(7.) The home occupation may utilize:

- a. Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purpose of this calculation, unfinished basement and attic spaces are not included;
- b. Unfinished attic and basement spaces; and
- c. One accessory structure. The floor are utilized in the accessory structure shall not exceed fifty percent (50%) of the total floor area of the dwelling unit.

12. INDUSTRIAL PERFORMANCE STANDARDS

The following provisions shall apply to all permitted industrial uses:

- a. **Danger**
No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations.
- b. **Vibration**
With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates
- c. **Wastes**
No wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial waste water may be discharged to municipal sewers only and in such quantities and quality as to be compatible with commonly accepted municipal sewage treatment operations subject to the approval of the appropriate entity. The disposal of industrial waste waters by means other than the municipal sewage system must comply with the laws of the State of Maine; and
- d. Those standards of Subsection 10 of this Section regarding Dust, Fumes, Vapors, Gases, Odors, Glare and Explosive Materials.

SECTION V: LAND USE STANDARDS –(cont.)

13. JUNKYARDS

No junkyard as defined in this Ordinance shall be established, operated or maintained without first obtaining a not-transferable land use permit issued in accordance with State licensing and local requirements, and the following provisions:

- a. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-ways; and shall be setback one hundred (100) feet from all sides and rear lot lines;
- b. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds; and

Junkyards shall be entirely screened from view by earth berms or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and sufficient to accomplish the complete screening from ordinary view.

In addition, the following provisions apply to the operation of junkyards:

- c. Upon arrival at the junkyard, all petroleum and other hazardous fluids shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and truck locks, shall be taken to avoid injury and accidents;
- d. Tires shall be remove and disposed of within 60 days at a duly licensed disposal or transfer facility. Proof of disposal shall be provided to the Code Enforcement Officer upon request.
- e. The complete processing of vehicles into salvage materials shall be accomplished within six (6) months;
- f. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area;
- g. No open burning of salvage materials or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in a duly licensed disposal facility.
- h. The Planning Board and/or Code Enforcement Officer may recommend the application of more stringent restrictions and/or limitations, and stipulate reasonable conditions which shall be attached to the permit covering the operation and use of the junkyard prior to the Selectmen's issuance of a permit.

SECTION V: LAND USE STANDARDS –(cont.)

14. LIGHTING DESIGN STANDARDS

Statement of purpose: ensure appropriate outdoor lighting by addressing the issues of safety, efficiency, the environment and aesthetics.

All development approval under this section shall be provided with adequate outside area, or the outside of any building, shall be directed into the property served by such lighting so that no undesirable illumination or glare will be produced on adjacent streets or lots occupied by residential, institutional or public uses.

A. Performance Standards

(1) Regulations- Unless determined to be a safety hazard or in violation of any state or federal law, all outdoor lighting installed in the Town of Newport shall comply with this section, except for the following: lighting installed and maintained for public safety by municipal, state or federal government; approved signs; external illumination of flags; approved lighting for athletic fields; temporary outdoor lighting; holiday lighting; luminaries with lamp or lamps rated at a total of 2,000 lumens or less.

(2) For the purposes of this section, a lumen is a unit of lumens flux. One foot-candle is equal to one lumen per square foot. The lumen-output values shall be the initial lumen output ratings of a lamp.

- a) No luminaries shall produce a stray, dazzling light or reflection onto neighboring residential properties, or onto any public road so as to impair the vision of any driver.
- b) Luminaries shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent buildings. No luminaries shall emit any direct light above its horizontal plane. The Planning Board may grant exceptions for lights that are aesthetically consistent with decorative streetlights and located on parcels adjacent to such streetlights.
- c) No flood or spot luminaire of any lumen output rating shall be aimed, directed or focused toward any adjacent or nearby residential parcel.
- d) Rather than leaving security lights on, the use of motion sensors is encouraged.
- e) Direct or indirect illumination shall not exceed ½ foot-candle upon abutting residential properties.
- f) Luminaire height, including the base, shall not exceed 25 feet. Exceptions may be granted only when it can be demonstrated that the intent of this section will still be substantially met.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont).

(3) Existing nonconforming luminaires

- a) The continued use of nonconforming luminaires legally existing as of the effective date of this section shall be permitted unless determined to be a safety hazard.
- b) Nonconforming luminaires replaced or moved after the effective date of this section shall comply with the provisions of this section.

15. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS

See Section V: Land Use Standards B. Dimensional Requirements

16. MANUFACTURED HOUSING

- a. Intent: It is the intent of this Ordinance to provide a variety of housing alternatives to all economic levels within the community, while continuing to insure the minimum standards of health, safety and welfare of the community. To this end, this ordinance allows the siting of all types of manufactured housing within designated areas of the Town regardless of their construction date or compliance with all the standards of the Manufactured Home and Construction

Safety Standards of the Department of Housing and Urban Development, adopted in 1975. The Town does hereby require however, that all manufactured housing sited within the Town of Newport meet certain minimum safety and design criteria;

- b. Minimum Safety Standards: All manufactured housing as defined in this ordinance, regardless of date of manufacture, and sited within the Town of Newport after the effective date of this ordinance, shall meet or exceed the following minimum standards before a “Certificate of Occupancy” shall be issued by the Code Enforcement Officer in conformance with Section VI.H of this Ordinance.
- c. HUD Approval Sufficient: All manufactured houses constructed after 1975 and bearing the seal of the Department of Housing and Urban Development which certifies the Manufactured Home was built pursuant to the provisions of the Manufactured Homes Construction and Safety Standards as revised shall be deemed to have fulfilled the requirements of this section.
- d. Minimum Electrical Safety Standards: All manufactured housing shall meet the following minimum safety requirements for electrical installation and maintenance as provided for by the National Electrical Code as said code pertains to the following:

SECTION V: LAND USE STANDARDS –(cont.)

- (1) 100 Ampere Entrance required;
- (2) Copper wiring required;
- (3) Two means of grounding required
- (4) Ground faulting receptacles required

In addition, all electrical installation or modifications to existing manufactured housing shall be inspected by and certified by and electrician licensed by the State of Maine or the Municipal Code Enforcement Officer if duly appointed as electrical inspector.

- e. Minimum Fire Prevention Standards: All manufactured housing shall meet the following minimum fire safety requirements as provided for by the National Electrical Code and the Manufactured Housing Construction Standards of 1975 established by the Department of Housing and Urban Development (HUD).

16. MANUFACTURED HOUSING (cont.)

- (1) All homes shall contain at least one operable fire extinguisher which is readily accessible at all times;
- (2) All homes shall have at least one operable AC smoke detector centrally located within the home and one operable smoke detector in each of the bedrooms as well as one Carbon Monoxide (CO Detector) Detector located in the hallway leading to bedrooms
- (3) The installation and maintenance of all heating systems including vents, chimneys, and encompassing secondary and tertiary as well as primary heating sources, shall meet the standards of NFPA 211. In addition, no wood stove shall be used for heating purposes in a manufactured home in the Town of Newport without first being inspected and approved by the Newport Fire Department for safe installation;
- (4) All automatic dryers, whether electric or gas, must meet the venting requirements of the Manufactured Home Construction Standards of 1975 as established by HUD; and;
- (5) All manufactured homes must meet the egress requirements of the Manufactured Home Construction Standards of HUD, towit, all

SECTION V: LAND USE STANDARDS –(cont.)

manufactured homes shall provide for at least two means of egress from each bedroom, one of which must be directly to the outside of the home and may be accomplished by way of a window with a minimum clear net opening of 5.7sq. ft. which can be opened easily without tools, and two doors exiting directly to the outside of the home separate by distances as established by the standards.

- f. Minimum Plumbing Standards: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code as amended.

- g. Minimum Design Standards: All manufactured housing will be sited and maintained in such a manner as to blend harmoniously with other residential structures in close proximity, to this end all manufactured housing located within the Town of Newport after the effective date of this ordinance shall:
 - (1) Have and maintain external siding which is residential in appearance for the manufactured home as well as any additions thereto or accessory structures located on the same lot;
 - (2) Be located on a permanent foundation as required by the duly adopted Building Code of the Town of Newport;
 - (3) Permanent skirting shall be installed within thirty (30) days of siting;

 - (4) Provide a safe means of egress and ingress to and from the manufactured home including stairs with handrails when applicable.

- h. No manufactured housing unit may be placed or stored on any lot in the Town of Newport for more than thirty (30) consecutive days while site work necessary for installation of the unit is being conducted on the lot upon which the unit is being stored. For purposes of this subsection, site work shall include construction of a foundation, installing municipal or private water and sewer disposal for the lot, and other work such as the installation of driveways, culverts, and finish grading.

This subsection does not apply to lots used by Manufactured Housing Dealers, licensed by the State of Maine, for display and sales of manufactured homes.

17. MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all Districts:

- (1) All exploration/extraction activities, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures

SECTION V: LAND USE STANDARDS –(cont.)

so as to reasonably restore disturbed areas and to protect the public health and safety;

- (2) No portion of any ground is to be disturbed by the extraction activity shall be closer than 100 feet from an public roadway;
- (3) Within 250 feet of any water body the extraction areas shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.
- (4) A natural vegetative screen of not less that 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
- (5) If any mineral extraction operation located within **100** feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal and 1 vertical or flatter.
- (6) Extraction operations (gravel pits, etc..) shall not be permitted within hundred (100) feet of any property lines without a written agreement of consent between property owners.

A. Performance Guarantee

No approval for excavation, removal or fill of land shall be issued by the Planning Board/Code Enforcement Officer until a surety bond, or other security acceptable to the Planning Board is posted by the owner of the land on which the excavation, removal or fill of land will take place. Such performance guarantee shall be made payable to the Town of Newport in the amount of \$2000 per acre of land projected for excavation, removal or fill. The purpose of the bond or other surety is to insure compliance with all permit conditions imposed by this ordinance.

18. MOBILE HOME PARK STANDARDS

Notwithstanding other provisions of this Ordinance relation to bulk, and use, the Planning Board in reviewing submitted plans for proposed mobile home parks, may modify said provisions related to space, bulk and use to permit innovative approaches to environmental design in accordance with the following standards;

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont.)

- a. there shall be compliance with all State and local codes and ordinances;
- b. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and designed so as not to be unsightly or hazardous to the public;
- c. No mobile home shall be located closer than twenty (20) feet to a street or adjacent mobile home;
- d. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot, such access shall have a minimum of fifty (50) foot right-of-way and a twenty (20) feet road width. All park streets shall be well drained, maintained in good condition, and adequately lighted at night;
- e. Dead end streets shall be limited in length to one thousand (1000) feet and at the closed end shall be provided with a turn around having a minimum radius of sixty (60) feet;
- e. Off-street parking in all mobile home parks shall be furnished at the rate of at least two (2) car spaces for each mobile home located on the mobile home lot.
- f. Mobile home lots shall provide an adequate foundation for the placement of a mobile home; such foundation shall meet the requirements of the duly adopted Building Code of the Town of Newport; and
- g. All individual mobile homes shall be equipped with skirting within thirty (30) days of siting.

19. OFF-STREET PARKING

- a. Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any District;
- b. Required off-street parking spaces shall be provided;
- c. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use;
 - (1) Dwellings – Two (2) parking spaces for each dwelling unit;
 - (2) transient Accommodations:

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

- (a) Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with ten (10) rooms or less – Two (2) parking spaces plus one (1) space for each guest room; and
- (b) Motels, hotels, boarding houses and ins with more than 10 rooms-- One (1) parking space for each guest plus one (1) space for each 3 employees;
- (3) Schools – Five (5) parking spaces for each classroom plus one (1) space for each four (4) employees;
- (4) Hospitals (bed facilities only) – one (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy;
- (5) Theaters, churches, and other public assembly places – one (1) parking space for every four (4) seats or for every one hundred (100) square feet or major fraction thereof of assemblage space if no fixed seats;
- (6) Retail Stores – one (1) parking space for every four hundred (400) square feet of retail area, plus one (1) space for every three (3) employees, unless public parking is provided;
- (7) Restaurants, eating and drinking establishments – one (1) parking space for every four (4) seats, plus one (1) space for every three (3) employees, unless public parking is provided;
- (8) Professional Offices and public buildings – one (1) parking space for every four hundred (400) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided;
- (9) Marinas – Minimum of one (1) parking space for each docking and mooring space;
- (10) Other commercial Recreation Establishments (mini golf courses, ect.) – The number of spaces deemed appropriate by the Planning Board; and
- (11) Industrial – one (1) parking space for each one and a half (1.5) employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

20. OFF-STREET LOADING

Adequate off-street loading areas shall be provided for appropriate land uses. Loading areas cannot be included as parking spaces when meeting parking requirements.

SECTION V: LAND USE STANDARDS –(cont.)

21. OIL AND CHEMICAL STORAGE

- a. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 MRSA, Section 560 et seq., which among other things establishes a ten (10) year compliance schedule for the discontinuance and removal of nonconforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities; and compliance with duly adopted building Code of Newport and NFPA provisions.
- b. When applicable, the applicant shall have the burden of proof to assure the Planning Board or code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

22. PESTICIDE APPLICATION

Pesticide application in any of the Districts shall not require a permit provided such application is in conformance with applicable State and Federal statutes and regulations.

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standards, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate stop of the use or activity responsible for the contamination. The landowner shall be responsible for the cost of all remedial actions.

23. REFUSE DISPOSAL

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The impact of particular industrial or chemical wastes or by-products upon the sanitary facilities (in terms of volume, flammability or toxicity) shall be considered and the applicant may be required to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The applicant may be required to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

24. SEWAGE DISPOSAL

- a. Subsurface Sewage Disposal
No permit shall be issued for a project with subsurface sewage disposal unless:
 - (1) there is an area of suitable soils according to the Subsurface Waste Water Disposal rules of sufficient size to accommodate the proposed system;

SECTION V: LAND USE STANDARDS –(cont.)

- (2) An acceptable plan to construct the absorption area is prepared in accordance with the Subsurface Waste Water Disposal Rules; and
- (3) In lieu of (1) and/or (2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution;

No development shall be permitted which utilizes, for on-site subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Subsurface Waste Water Disposal Rules.

b. Sewage Sludge Disposal

The following requirements shall apply to sewage sludge disposal wherever allowed: All septic sludge disposal shall conform with the “Town of Newport’s Sludge Storage and Spreading Ordinance”

25. SIGNS

a. Conformance of Signs

No sign shall be hereafter erected, altered or maintained within the limits of the Town of Newport, Maine except in conformance with the provisions of this section.

b. Signs Prohibited

No sign, whether new or existing, shall be permitted within the Town of Newport, Maine which causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or obstruction or existing signs.

c. Temporary Signs

The following temporary signs are permitted provided said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

(1) Temporary Signs Giving Notice

Signs of temporary nature, such as political posters, advertisements or charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed thirty (30) days, provided that the persons who posted the signs shall be responsible for their removal.

SECTION V: LAND USE STANDARDS –(cont.)

(2) Temporary Yard Sale Signs

Temporary yard sale signs are permitted provided they do not exceed the size standards of Subsection e and provided they are removed within twenty-four (24) hours of the completion of the sale. Yard sales which extend for more than four (4) consecutive days are considered commercial use.

d. Sign Requirements

All signs within the limits of the Town of Newport shall meet the following requirements:

- (1) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All free standing signs shall be set back a minimum of eight (8) feet from property lines in all districts;
- (2) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving light;
- (3) No sign shall exceed twenty five (25) feet in height;
- (4) Signs may be illuminated only by shielded non-flashing lights so as to effectively prevent beams of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.
- (5) Roof signs shall not extend more than ten (10) feet above the roof line;
- (6) Signs in Commercial and Commercial/Industrial District. No more than two (2) free standing signs per use. Signs may be double faced. No larger than one hundred (100) square feet in area and no higher than twenty-five (25) feet height.
- (7) Signs in Industrial District. No more than two signs per use. no sign shall be greater than 100 square feet in area and no higher than 25 feet in height.
- (8) Signs involving Home Occupations shall not exceed four (4) sq. ft. and not more than one per lot.

e. Off-Premise Signs

No off premise sign shall be erected or maintained in the Town of Newport except in conformity with MRSA Title 23, Section 1901-1925, The Maine

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont.)

Traveler Information Services Law. Off premises official business directional signs may be located in the Town of Newport in such manner as allowed under MRSA Title 23, Section 1901-1925 and under the rules and regulations of the State of Maine Department of Transportation.

f. Exempt Signs

The following signs are exempt from the provisions of this section except as otherwise provided for herein:

- (1) Traffic control signs, signals, and/or other devices regulating or enhancing public safety erected by a governmental body.

26. SITE CONDITIONS

- a. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity.
- b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, an excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit; and
- c. No changes shall be made in the elevation or contour of the lot or site by the removal of earth to another lot or site other than shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

27. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed use requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land use, shall require a soils report, prepared by a duly licensed individual as appropriate for the project.

28. TEMPORARY STORAGE

Portable or mobile trailers, vans and similar vehicles or temporary buildings may be used for storage, only upon approval of the Code Enforcement Officer and only for a

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont.)

temporary period not to exceed six (6) months. Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of six (6) months each, if a finding can be made that the use:

- a. Does not diminish area requirements as set forth for the District in which it is located;
- b. There is a valid temporary need which cannot be met within the principal structure and that adequate economic hardship can be shown;
- c. The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties including aesthetic appearance;
- d. The use is not intended as a permanent or long term use;
- e. The use is not intended to circumvent building area limitations for the District in which it is located or prolong the use of facilities which have been outgrown;
- f. Will be adequately screened from neighborhood properties and the street;
- g. Will not be used as or intended for advertising for on or off premises purposes; and
- h. Is not intended for retail sales.

The above provisions do not prohibit the use of such temporary facilities as construction or job site office or equipment storage facilities during construction provided that no advertising other than the contractor's name shall be permitted and that such signs meet the sign requirements of this Ordinance.

29. TOPSOIL AND VEGETATION REMOVAL

- a. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;
 - 1. Except for normal thinning, landscaping, cutting of trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION V: LAND USE STANDARDS –(cont.)

30. TRANSIENT ACCOMMODATIONS: “BED AND BREAKFAST”

“Bed and Breakfast: accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:

- a. The “Bed and Breakfast” operation shall not have any adverse effect on neighbors.

31. TRANSIENT ACCOMMODATIONS: “RENTAL CABINS AND COTTAGES”

To insure the health, safety, and welfare of guests and the occupants of neighboring properties, the following requirements shall be met:

- a. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each cabin or cottage;
- b. Each cabin or cottage shall be set back a minimum of 20 feet from the exterior lot lines;
- c. Each cabin or cottage shall be provided with a safe and adequate means of sewage, garbage and rubbish disposal, water supply and fire protection;
- d. Adequate storm water drainage shall be provided for each cabin or cottage site; and
- e. Each cabin or cottage site shall be appropriately landscaped

B. DIMENSIONAL REQUIREMENTS

All structures and uses shall meet or exceed the following dimensional requirements:

Mixed Residential District Dimensional Requirements	(MR1) Mixed Residential District	(MR2) Mixed Residential District
Minimum Lot size		
Municipal Sewer	20,000 Sq. Ft.	1 Acre*
Subsurface Disposal	30,000 Sq. Ft.	1 Acre*

*** Multi-family developments in MR 2 District shall meet the following requirements: 1 acre for a one family dwelling, 1.5 acres for a two family dwelling, 2 acres for a three family dwelling, 2.5 acres for a four family dwelling. NOTE 1: each building shall be limited to no more than 4 units NOTE 2: all acreage required for multi-family in the MR2 District must be classified as buildable. Easement areas, freshwater wetlands and other unusable areas shall not be classified as buildable.**

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

B. DIMENSIONAL REQUIREMENTS (cont.)

Mixed Residential District Dimensional Requirements	(MR1) Mixed Residential District	(MR2) Mixed Residential District
Minimum Lot size per Dwelling Unit		
Municipal Sewer	20,000 Sq.Ft.	1 Acre
Subsurface Disposal	30,000 Sq. Ft.	1 Acre
Minimum Road Frontage	100 feet	150 feet
Minimum Front Yard Setback From edge of traveled way	Variable*	50 feet
Minimum Side Yard Setback		
Principal Structures	15 feet	15 feet
Accessory Structures	Frontage Setback >100' - 15' 75-100 - 10' <75' - 5'	
Minimum Rear Yard Setback		
Principal Structures	15 feet	15 feet
Accessory Structures	Frontage Setback >100' - 15' 75-100 - 10' <75' - 5'	
Maximum Building Height		
Principal Structures	35 feet	35 feet
Accessory Structures	35 feet	18 feet

- Variable setback designation indicates that the setback shall be established at provided in Section V, C

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

B. DIMENSIONAL REQUIREMENTS (cont.)

Village District Dimensional Requirements	(V) Village District								
<hr/>									
Minimum Lot Size	20,000 sq. ft.								
Minimum Lot Size per Dwelling Unit	4,000 sq. ft.								
Minimum Road Frontage	75 feet								
Minimum Front Yard Setback from edge of traveled way	variable*								
Minimum Side Yard Setback									
Principal Structures	15 feet								
Accessory Structures	<table border="0"> <tr> <td>Frontage</td> <td>Setback</td> </tr> <tr> <td>>100' -</td> <td>15'</td> </tr> <tr> <td>75-100 -</td> <td>10'</td> </tr> <tr> <td><75' -</td> <td>5'</td> </tr> </table>	Frontage	Setback	>100' -	15'	75-100 -	10'	<75' -	5'
Frontage	Setback								
>100' -	15'								
75-100 -	10'								
<75' -	5'								
Minimum Rear Yard Setback									
Principal Structures	15 feet								
Accessory Structures	<table border="0"> <tr> <td>Frontage</td> <td>Setback</td> </tr> <tr> <td>>100' -</td> <td>15'</td> </tr> <tr> <td>75-100 -</td> <td>10'</td> </tr> <tr> <td><75' -</td> <td>5'</td> </tr> </table>	Frontage	Setback	>100' -	15'	75-100 -	10'	<75' -	5'
Frontage	Setback								
>100' -	15'								
75-100 -	10'								
<75' -	5'								
Maximum Building Height									
Principal Structures	35'								
Accessory Structures	18"								

- Variable setback designation indicates that the setback shall be established as provided in Section V, C.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

B. DIMENSIONAL REQUIREMENTS (cont.)

Commercial/Industrial Districts Dimensional Requirements	(C) Commercial District	(I) Industrial District
Minimum Lot Size		
Municipal Sewer Subsurface disposal	80,000 sq. ft.	80,000 sq. ft.
Minimum Road Frontage	200 feet	200 feet
Minimum Front Yard Setback from edge of Traveled Way	75 feet	75 feet
Minimum Side Yard Setback		
Principal Structures	25 feet	25 feet
Accessory Structures	25 feet	25 feet
Minimum Rear Yard Setback		
Principal Structures	25 feet	25 feet
Accessory Structures	25 feet	25 feet
Maximum Building * Height		
Principal Structures	35 feet	35 feet
Accessory Structures	35 feet	35 feet

- Height limitations shall apply to building not essential services associated with the development.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

B. DIMENSIONAL REQUIREMENTS (cont.)

Rural District Dimensional Requirements	(R) Rural District
<hr/>	
Minimum Lot Size Municipal Sewer Subsurface Disposal	1.5 Acres
Minimum Lot Size per Dwelling Unit Municipal Sewer Subsurface Disposal	1 Acre
Minimum Road Frontage	200 feet
Minimum Front Yard Setback From edge of traveled way	60 Feet
Minimum Side Yard Setback Principal Structures	25 Feet
Accessory Structures to include attached garages	25 feet
Minimum Rear Yard Setback Principal Structures	25 Feet
Accessory Structures	25 feet
Maximum Building Height Principal Structures	35 feet
Accessory Structures	35 feet

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

B. DIMENSIONAL REQUIREMENTS (cont.)

Water District Dimensional Requirements	(WD) Water District
Minimum Lot Size	2 Acres
Minimum Lot Size per Dwelling Unit	1 Acre
Minimum Road Frontage	200 feet
Minimum Front Yard Setback From edge of traveled way	100 feet
Minimum Side Yard Setback Principal Structure	50 feet
Accessory Structures	25 feet
Minimum Rear Yard Setback Principal Structures	50 feet
Accessory Structures	25 feet
Maximum Building Height Principal Structures	35 feet
Accessory Structures	35 feet

- All Development Proposals within this identified district shall be provided to the Newport Water District

SECTION V: LAND USE STANDARDS –(cont.)

C. VARIABLE SETBACKS

The Code Enforcement Officer shall establish the minimum front yard setback from edge of the traveled way in the Mixed Residential 1 District and Village District in the following manner:

1. When both adjoining lots have existing dwellings located on them, the setback for the proposed new development shall be the average setback of the adjoining dwellings from the edge of the traveled way.
2. When only one of the adjoining lots has an existing dwelling located on it, the back for the proposed new development shall be the average setback of the three dwellings in the closest vicinity to the proposed development.
3. Maximum required setback shall not be over 50’

SECTION VI: ADMINISTRATION AND ENFORCEMENT.

Section Uses Guide: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval and public hearings.

A. CREATION OF ADMINISTERING BODIES AND AGENTS

1. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

2. PLANNING BOARD

The Planning Board of the Town of Newport is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt. 2, Section 1 of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectmen of the Town of Newport.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in the Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. BOARD OF APPEALS

The Board of Appeals for the Town of Newport is hereby designated as the Board of Appeals heretofore, established in accordance with Article VIII, Pt. 2, Section 1 of the Maine Constitution and with Title 30-A, MRSA. Section 4353. The Board of Appeals shall be appointed by the Selectmen of the Town of Newport.

B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided within.

C. APPLICATION NEEDED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

D. CODE ENFORCEMENT OFFICER PERMIT

A permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

A. ACTIVITIES REQUIRING A PERMIT

1. **FLOOD HAZARD AREAS:** All construction or earth moving activities or other improvements within the 100-year flood plain designation of the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.

2. **NEW CONSTRUCTION:** New construction of buildings or structures

3. **ALTERATION:** Alteration of a building, structure, or land, or parts thereof including, but not limited to:

- a. Interior renovations for change in use;
- b. Removal of interior walls to create new rooms;
- c. Enclosing open frame porch, for the creation of additional sleeping space or any activity which increases the existing amount of water used daily;

4. **PLACEMENT OF SIGNS:** Placement of signs except temporary signs.

5. **MOVING OR DEMOLITION:** All buildings or structures that are removed from or moved onto, or moved around within a lot, or demolished. Any person, corporation, or other entity moving a building or structure must obtain a permit before undertaking such activity.

Manufactured Housing Dealers or Manufactured Housing Transporters must obtain a permit, from the Town of Newport, before moving a manufactured home from one location to another within the Town of Newport.

This subsection does not apply to Manufactured Housing Dealers, licensed by the State of Maine, for display and sales of manufactured homes.

6. **CHANGE OF USE:** The change of any premises from one category of land use to any other land use.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

7. Any activity requiring a Land Use Permit in accordance with the Land Use Ordinance Schedule of Uses.

B. PROCEDURE

1. **APPLICATION:** All applications for a Code Enforcement permit shall be submitted, with appropriate fee, in writing to the Code Enforcement Officer on forms provided.

2. **SUBMISSIONS:** All applications for a Code Enforcement Officer Permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distances, and showing: Items listed below shall be required at the discretion of the Code Enforcement Officer

- a. The actual shape and dimensions of the lot for which a permit is sought;
- b. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty feet (250') of the property lines;
- c. The location and building plans of new buildings, structures or portions thereof to be constructed;
- d. The existing and intended use of each building or structure;
- e. Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffers, private wells, and;
- f. Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.

3. **TO WHOM ISSUED:** No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

4. **COMPLIANCE WITH LAND USE ORDINANCE:** All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.

5. **DEADLINE FOR DECISION:** The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit, if all proposed construction and uses meet the provisions of the Ordinance, refer the application to the Planning Board for their review, or deny the application. All decisions of the Code Enforcement officer shall be in writing.

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

6. COPIES: One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision shall be retained by the Code Enforcement Officer as a permanent public record.

7. POSTING: The applicant shall cause any permit issued to be available at the site on which the activity will occur.

8. COMMENCEMENT AND COMPLETION OF WORK: Construction and alteration activities of projects for which a permit has been granted under this Section shall commence within six (6) months of the date of issuance of the permit and shall be completed within twenty-four (24) months of that date.

Activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty days prior to the expiration of the prior permit.

9. APPEALS: Appeals from decisions of the Code Enforcement Officer may be taken pursuant to the provisions of the Ordinance.

E. PLANNING BOARD PERMIT REVIEW

The Planning Board shall review all applicable Land Use Permit applications to Section IV, F, Schedule of Uses.

1. APPLICATION: All applications for a Planning Board Permit shall be submitted with applicable fee, in writing to the Code Enforcement Officer on forms provided.

2. SUBMISSION: All applications for a Planning Board Permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distance and showing: Items listed below shall be required at the discretion of the Planning Board:

- a. Map drawn to scale.
- b. Name of applicant

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

- c. Boundaries of the tract of land.
- d. Location of existing and proposed buildings and other structures, including use and proposed use thereof.
- e. Location of buildings on abutting properties or within 300 feet of the property line of the proposed development.
- f. Location of existing public streets.
- g. Location of proposed access drives to the lot from public streets.
- h. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas
- i. Location of existing and proposed pedestrian walkways.
- j. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water and electricity.
- k. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.
- l. Location, intensity, type, size and direction of all outdoor lighting.
- m. Location and proposed use for areas proposed for outdoor recreation.
- n. Location and type of existing and proposed fences, hedges, and trees 12 inch diameter and over a point 4.5 feet above ground level or filled.
- o. Contour lines at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled.
- p. Location and size of signs and all permanent outdoor fixtures.
- q. Zoning district classification
- r. Setback dimensions from property lines and edge of driveway.

3. TO WHOM ISSUED: No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

4. COMPLIANCE WITH LAND USE ORDINANCE: All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.

5. PUBLIC HEARING DEADLINE: Within a maximum of forty-five (45) days after the filing of an application for a Land Use Permit, and before taking action thereon, the Planning Board may hold a public hearing on the application. Notice of said hearing shall be published in a local newspaper at least ten (10) days in advance of said hearing. A notice of said hearing shall be mailed to each landowner abutting the parcel involved. Land owners shall be considered to be those against whom property taxes are assessed. Failure of any land owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the Code Enforcement Officer. The applicant shall bear all associated costs of advertisements and notifications. The purpose of the public hearing shall be to

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

receive input from the general public relative to the applicable sections of the review standards.

6. **PLANNING BOARD REVIEW AND ACTION:** Within thirty (30) days after the public hearing, if one is held, or thirty (30) days from the date of the Planning Board meeting in which the permit application is reviewed, the Planning Board shall approve, approve with modifications, or disapprove the application. The Board shall limit its review to the criteria and standards established within this Ordinance. The Board shall inform the applicant of its decision in writing, and in cases of disapproval or approval with modifications, reasons for such action shall be stated. A copy of the Board's decision shall be retained on file with the Code Enforcement Officer. A Land User Permit shall not be issued unless approval of the application has been granted.

7. **COPIES:** One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy with a copy of the permit or written decision, shall be retained by the Code Officer as a permanent public record.

8. **POSTING:** The applicant shall cause any permit issued to be available at the site on which the activity will occur.

9. **COMMENCEMENT AND COMPLETION OF WORK:** Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within six (6) months of the date of issuance of the permit and shall be completed within twenty four (24) months of that date.

Activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to the expiration of the prior permit.

10. **APPEALS:** Appeals from decisions of the Planning Board may be taken pursuant to the provisions of this Ordinance.

F. OTHER PERMITS REQUIRED BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been secured

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

G. POSITIVE FINDINGS REQUIRED

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

- a. is a permitted use in the district in which it is proposed to be located;
- b. is in conformance with the applicable performance standards of Section V of this Ordinance
- c. will not result in unsafe or unhealthful conditions;
- d. will not result in undue land, water or air pollution;
- e. will not result in undue erosion or sedimentation
- f. Will avoid problems associated with development in flood hazard areas;
- g. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- h. Will conserve significant natural, archaeological, and historical resources;
- i. The impact of the proposed use on transportation facilities;
- j. The impact of the proposed use on local water supplies;
- k. Be consistent with the long range goals of the Comprehensive Plan, other adopted plans of the town, and the goals and purposes of the established districts.

H. VIOLATIONS

Violations of the terms and conditions of this Ordinance shall be corrected within thirty (30) days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer or Planning Board, said Violation may void all permits

I. COMMENCEMENT AND COMPLETION OF WORK

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within six (6) months of the date of permit issuance and shall be completed within twenty-four (24) months of the date of permit issuance.

J. CERTIFICATE OF OCCUPANCY REQUIRED

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same way be occupied or used. A Certificate of Occupancy is required for the following:

- 1. Activities granted approval under the provisions of this Ordinance.
- 2. Change in occupancy of rental or leased units.

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

K. ENFORCEMENT

1. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

2. CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS

When the above does not result in the correction or abatement of the violation or nuisance condition, the Town Manager, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the impositions of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance in the name of the municipality.

4. FINES

Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be liable for civil penalty of a minimum of one hundred (\$100.00) dollars and up to Twenty five hundred (\$2,500.00) dollars for each violation. Each day the violation continues shall constitute a separate violation.

5. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provision of this Ordinance may be held liable for violation this Ordinance if the necessary permits for said activity have not been obtained or if work performed by the contractor does not conform to all conditions of approval of the permit or the terms of this Ordinance.

L. APPEALS

1. ADMINISTRATIVE APPEALS

The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the code Enforcement Officer or the Planning Board in the administration of

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

this Ordinance. Where errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning board for correction

2. VARIANCES

The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

- a. Dimensional variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, and setback requirements.
- b. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 1. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 2. The strict application of the terms of this Ordinance would result in an undue hardship.

The term “undue hardship” shall mean all of the following:

- a. The land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the circumstances of the property and not to the general conditions in the neighborhood; of the locality; and
- c. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living or regularly visits the property. The Board shall restrict any variance granted under this Sub Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability.
- e. The Board may grant a variance to a property owner from the setback requirement only when strict application of the zoning ordinance to the

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

petitioner and the petitioner's property would cause undue hardship. A variance under this section may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:

- A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- B. The granting of a variance will not alter the essential character of the locality;
- C. The hardship is not the result of action taken by the applicant or a prior owner;
- D. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

3. APPEAL TO SUPERIOR COURT

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

M. VARIANCES RECORDED

If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The Applicant shall be responsible for the recording of any variance. A variance is not valid until recorded as provided in this section. The date of the final written approval shall be the date stated on the written approval.

A. FEE SCHEDULE

All applications fees for permits shall be paid to the Town of Newport in accordance with the fee schedule as established by the Selectmen of the Town of Newport. Fees

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VI: ADMINISTRATION AND ENFORCEMENT-(cont.)

shall be for the cost of processing the permits and shall not be refundable regardless of the final decision issue or deny a permit. Advertising costs, technical or legal assistance and associated costs deemed necessary by the Town of the review of application shall be the responsibility of the applicant.

1. PLUMBING PERMITS

Fees for Plumbing Permits shall be pursuant to the established fee schedule of the Town of Newport.

2. Fees for Land Use Permits shall be pursuant to the established fee schedule of the Town of Newport.

SECTION VII: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

1. In this Ordinance, certain terms or words should be interpreted as follows:

- a. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
- b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
- c. The word “shall” is mandatory;
- d. The word “may” is permitted;
- e. The words “used” or “occupied” includes the words “intended”, “designed”, or “arranged to be used or occupied”; and
- f. The word “dwelling” includes the word “residence”

2. Terms not defined shall have the customary dictionary meaning.

3.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

A. DEFINITIONS

For the purposes of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

ABUTTING: Having a common border with, or being separated from such common borders by an alley or easement.

ACCESS: A means of approach or entry to or exit from property

ACCESSORY STRUCTURE: See Structural Terms

ACRE: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

AGGRIEVED PERSON: A person whose interest are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

ADDICTION TREATMENT FACILITY: Any building, structure or space whose principal or primary function is the outpatient treatment (no residency or overnight treatment) of chemically dependent persons, and which by the dispensing or sale of synthetic narcotics attempts to control, suppress and/or eliminate a person's mental or physical dependence on any illegal or harmful substance. These facilities have no retail sales component associated with the use. Typical uses include methadone clinics and other similar uses.

AGRICULTURAL ACTIVITY: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure and manure sludge, liming, planting, pesticide application, harvesting of cultivated crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads.

ALTERATION: As applied to building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing height; or moving from one location or position to another.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing

AUTOMOBILE SALES: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where not repair work is done except minor incidental repair of automobiles or trailer displayed and sold on the premises.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

AUTOMOBILE REPAIR SERVICE: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

BASEMENT: The substructure of a building that is partially or wholly below ground level which may or may not be used for living spaces

BED AND BREAKFAST: Accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of four (4) guest rooms and ten (10) guests at any one time. Breakfast is the only meal, if any, to be provided for compensation.

BUFFERS: Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: A roofed structure. See Structural Terms

BUILDING AREA: Total of areas taken on a horizontal plane at the main finished grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces or walls.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes perches whether enclosed or unenclosed but does not include steps.

CAMPGROUND: Any land area specifically designed and developed, containing two (2) or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreation vehicles and/or towed travel trailers for compensation. Accessory uses include campers services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services etc.

CERTIFICATE OF OCCUPANCY: Official certification that a premises conforms to provisions of the Land Use Ordinance (and building code, electrical code and plumbing code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

CLUSTER DEVELOPMENT: The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

permanently preserved as common “open space”. The term also refers to a Planned Unit Development.

CODE ENFORCEMENT OFFICER: A person appointed by the municipal officers to administer and enforce this Ordinance.

DAY CARE CENTER: As defined in Title 22, MRSA, Section 1673, as a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

Day Care Center: A Day Care Facility as defined in State statutes for thirteen (13) or more children on a regular basis; and

Day Care Home: A Day Care Facility as defined in State statutes for three (3) to twelve (12) children on a regular basis.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

DISTRICT: A specified portion of the Town, delineated on the Official Zoning Map, within which certain regulations and requirements of various combinations thereof, apply under the provisions of this Ordinance.

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation or alleviation of flooding.

EASEMENT: Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

EMERGENCY OPERATIONS: Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

ENLARGEMENT OR TO ENLARGE: An “enlargement” is an addition to the floor area of an existing building, an increase in the size or any other structure, or an increase in that portion of a tract of land occupied by an existing use. To “enlarge” is to make an enlargement.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

ESSENTIAL SERVICES: The construction, alteration maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include tower, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from definition of a structure.

EXTENSION OR TO EXTEND: An increase in the amount of existing floor areas used for an existing use within an existing building. To “extend” is to make an extension.

FAMILY: Two (2) or more persons related by blood, marriage or adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

FOREST MANAGEMENT TERMS:

1. **Forest Management Activities:** Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated activities but not the construction or creation of roads.
2. **Timber Harvesting:** the cutting and removal of trees from their growing sites, and the attendant operation of harvesting machinery, but not the construction of roads. Timber harvesting does not include the clearing of land for approved construction.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings, not more than one (1) space may regularly be used by the private passenger automobile or a persons not resident on the premises.

GROCERY STORE: A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a “Major Retail Outlet”.

GUEST ROOM: A room in a hotel, motel, tourist home, or “Bed and Breakfast” residence offered to the public for compensation in which no provisions is made for cooking.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of such buildings.

HOSPITAL: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

INDUSTRY: Use of a premises for assembling, fabricating, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

IN-LAW APARTMENTS: See Structural Terms

JUNKYARDS:

Automobile Graveyards: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn out or junked automobiles.

Junkyard: A yard, field or other area used as a place of storage for discarded worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap and junked lumber, old or scrap copper, brass, rope, rages, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material including garbage dumps, waste dumps and sanitary landfills.

Auto Recycling Business: An automobile recycling business is a business which purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding or repairing salvage vehicles for resale.

KENNEL, COMMERCIAL: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training, or breeding, for which a fee is charged.

KENNEL, NON-COMMERCIAL: An accessory building to a residence designed of used for the accommodation of dogs or cats owned by the occupants of the residence.

LAND USE PERMIT: A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

LICENSED FIREWORK SALES: The sale of consumer fireworks as defined by 8 MRSA sec. 221-A(1-A) by a person licensed by the State in accordance with 8 MRSA sec. 223-A(3) to conduct such sales.

LIGHT MANUFACTURING: The fabrication or processing of materials into finished product. Fabrication relates to the stamping, cutting or otherwise shaping the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ore, lumber or rubber.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, ally or other appropriate means of access.

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory building or uses incidental to such building, use or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use or development.

LOT AREA: The area contained within the boundary lines of a lot.

LOT, CORNER: A lot abutting two (2) or more streets at their intersection.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

LOT FRONTAGE: Lot width measured at the street lot line. When a lot has more than one (1) street lot line, lot width shall be measured, and the minimum lot width required by the Ordinance shall be provided, on at least one (1) street.

LOT LINE: A line bounding a lot which divides one (1) lot from another, or from a street or any other public or private space, as defined below:

Front Lot Line: In the case of a lot abutting only one street, the street line separation such lot from such street; in the case of a double frontage lot, each street line separation such lot from a street shall be considered to be the front lot line, except where the rear yard requirements is greater than the front yard requirements in which case one of two opposing yards shall be a rear yard. In the case of a lot with not road frontage, the front lot line shall be considered to be the line parallel to the front of the building.

Rear Lot Line: That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front lot line shall be considered to be the lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street.

Side Lot Line: Any lot line other than a front or rear lot line.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

LOT OF RECORD: Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

LOT STANDARDS: The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as “space and bulk” regulations in size and height of building; location or exterior walls at all levels with respect to lot lines, streets and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

MANUFACTURED HOUSING: a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or places on an independent chassis, to a building site.

For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. **NEWER MOBILE HOME:** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et. seq., which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred and fifty (750) or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;
2. **OLDER MOBILE HOMES:** Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called “travel trailers”.
3. **MODULAR HOMES:** Those units which the manufacturer certifies are constructed in compliance with the State’s manufactured Housing Act and regulation, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwelling s on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

MARIJUANA DISPENSING FACILITY: Any dispensary registered and operated under 22 MRSA § 2428 whose function, in whole or part is to grow or dispense medical marijuana or marijuana products.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

MARINA: A business establishment having frontage on navigable water within the Town and providing for hire off-shore mooring or dock facilities for boats and accessory services and facilities such as: boat sales, rental and storage, marine supplies and equipment, marina engine and hull repairs, construction and outfitting for pleasure craft, fuel and oil, electricity, fresh water, ice, shower and laundry facilities and on-premise restaurant.

MEDICAL CLINIC: An office building used by members of a medical profession for the diagnosis and out-patient treatment of human ailments.

MINERAL EXTRACTION: The removal of sand, gravel, bedrock or soil from its natural site for geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

MOBILE HOME PARK: A parcel of land under unified ownership approved by the Town of Newport for placement of three (3) or more manufactured homes.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway, or which is not being used for the purposes for which it was manufactured.

MUNICIPAL FACILITIES: Buildings or land which is owned by a Public entity and operated under its supervision for a public purpose.

NON-CONFORMING USE: See USE TERMS

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change size or capacity.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARCEL: The entire area of a tract of land before being divided by a development.

PARKING LOT: An open area other than a street used for the parking of more than four (4) automobiles and available for public use whether free, for compensation, or an accommodation for clients or customers.

PARKING SPACE: A surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a driveway connection the parking space with a street, road or

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PERFORMANCE STANDARDS: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of Newport.

PROFESSIONAL OFFICE: An office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., but not including any manufacturing, commercial or industrial activity.

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

- (1) Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which the food and beverages are consumed; or
- (2) A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

RETAIL ESTABLISHMENT: Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

ROAD: A thoroughfare or way consisting of a bed or exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Private Road: A thoroughfare of way designated for private use and maintained by a property owner or group of property owners.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

SETBACK: The minimum distance from the edge of the traveled way or lot line to the nearest part of a structure.

SIGN ITEMS: Device, model, banner, pennant, insignia, flag, or other representation which is used as, or is in the nature of an advertisement, announcement or direction.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

SIGNS:

Free Standing: A sign supported by one (1) or more uprights or braces permanently affixed into the ground.

Portable: A sign not designed or intended to be permanently affixed into the ground or to a structure.

Roof: A sign which is attached to a building and is displayed above the eaves of such building.

Temporary: A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and for rent signs.

Wall: Any signs painted on, or attached parallel to, the wall surface of a building and projection therefrom no more than six (6) inches.

Window: Any on-premise, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued, or otherwise affixed to a window.

Area of a Sign: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

STRUCTURAL TERMS:

Building: Any structure, maintained, or intended for use as a shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any thereof. Where independent units which separate entrances are divided by walls, each unit is a building.

Building, Accessory

A building which one (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and three (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

Building, Principal

A building (structure) in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

Dwelling

A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multiply family dwellings.

Dwelling Unit/Apartment

A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

Dwelling, Single Family Detached

A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

Dwelling, Two Family

A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

Dwelling, Multiple Family

A building or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

In-Law Apartments

A separate dwelling unit which is located within and subordinate to a single family detached dwelling and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said person or persons pay rent or share expenses with the owner thereof.

Structure

Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land, including a patio or deck. (See Essential Services)

TRANSIENT: A non-resident person residing within the Town of Newport less than thirty (30) days.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION VII: DEFINITIONS (cont.)

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

1. Accessory Use: A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.
2. Principal Use: The specific primary purpose for which land is used.
3. Conforming (permitted) Use: A use which may be lawfully established in a particular district, provided in conforms with all the requirements, standards and regulations of such district.
4. Non-Conforming Use: A use which does not conform to the provisions of this Ordinance.
5. Open Space Use: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

WAREHOUSE AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WHOLESALE BUSINESS ESTABLISHMENT: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

YARD: The are of land on a lot not occupied by building.

- Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.
- Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line.

LAND USE ORDINANCE OF THE TOWN OF NEWPORT

Accepted by vote of Town Meeting March 12, 2011

Land Use Ordinance/pas
Immaterial corrections 12/9/2014