2013

Town of Newport Maine Ordinances

Newport, Me.

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ORDINANCE RELATING TO ANIMALS
AND FOWL IN THE TOWN OF NEWPORT

A. General
1. Definitions
As used in and for the purposes of this ordinance the following words and phrases shall
have the meaning assigned to them herein.

"Owner" shall mean any person who keeps, has temporary or permanent custody,
posses, harbors, exercises control over, or has a property right in the animal, livestock, or
fowl provided that veterinary hospital, commercial kennels, and pet shops and their
employees shall not be considered to be owners to the extent hereinafter provided.

"Public Nuisance Animal" shall mean any animal which unreasonably (1) annoys
humans (2) endangers the life and health of other animals or persons (3) gives offense to
human senses or which substantially interferes with the rights of the citizens other than its
owner to enjoyment of life and property. The term public nuisance animal shall mean and
include, but not limited to any animal which:
2. Is repeatedly found at large or;
3. Damages the property of anyone not its owner or;
4. Molests pedestrians or;
5. Chases vehicles or;
6. Excessively makes disturbing noises including, but not limited to,
continued and repeated howling, barking, whining, or other utterances
causing unreasonable annoyance, disturbance, or discomfort to neighbors
and others in close proximity to the premises where the animal is kept or
harbored or;
6. Causes unsanitary conditions in enclosures or surroundings
where animal is kept, or;
7. Attacks other domestic animals

"Public Nuisance Conditions" shall mean an unsanitary, dangerous, or offensive
condition occurring in any facility including, but not limited to, any commercial kennel,
cattery, hog pen, riding stable, farm, pet shop, or petting zoo, causing by the size, number
or type of animals maintained, kept or harbored on any premises due to the inadequacy of
the facility or establishment which maintains, keeps or harbors any animal under conditions
which constitute cruelty to such animals, or where the animal maintained, kept or harbored
is a public nuisance animal.

B. ANIMAL CONTROL PROGRAM

1. Authorization
a. The Town Manager is authorized to establish animal control Program, designate a
person to perform the duties of administrator of animal control and appoint one or more
persons to be animal control warden(s). The program shall include the enforcement of the
provisions of this ordinance and the operation of any town animal control facility. This program shall operate in conduction with and support animal control programs from other jurisdictions.

2. Powers of Animal Control Wardens
Animal Control Wardens are authorized and empowered to enforce the provisions of the ordinance as follows:

(1) By impounding animals found to be at large, injured or diseased;
(2) By issuing citations to persons in violation of this ordinance declared to be an infraction;
(3) By notifying the Newport Police Department and for working in conduction with for any violation of any provisions of this ordinance
(4) By enforcing cruelty prevention's provisions of this ordinance by rescuing and impounding mistreated animals;
(5) By administrating emergency veterinary assistance or first aid to injured animal which come into the custody of the Town without the consent of the owner of such animals. For this purpose, neither the individual animal control warden administrating such emergency assistance, or first aid, or the Town or any of its employees or agents shall be liable for acts committed or omitted in the course of rendering such emergency assistance or first aid.

3. Powers of Police Officers
Police Officers shall be empowered and authorized to perform all the duties of animal control warden(s) as set forth in this ordinance as well as all State Law provisions regarding Animal Welfare.

4. Records
Accurate and detailed records of all licenses issued, impoundment's, care, feeding and veterinary treatment rendered, disposition of animals and animal control undertaken shall be kept and maintained in accordance to Maine Revised Statutes Annotated, Title 7 Part 9.

C. Animal Control Regulations
1. Manner of keeping animals prohibition of nuisances
   (1) No person shall keep or maintain any animal in the Town in such a manner as to disturb the peace, comfort and health of any person residing in the Town or permit the animal to be a public nuisance or to cause or permit the animal to become a public nuisance.
   (2) No owner of any animal or owner of any animal holding facility shall fail to abate a nuisance caused by an animal owned by the person or under the person's control, nor shall any person fail to abate a public nuisance condition found to exist upon the premises owned or controlled by the person after having been notified by an animal control warden or other law enforcement officer.

2. Excessive Noise Prohibited
(1) No person who owns, keeps, or has in his possession any animal of any kind whatsoever shall permit such animal to disturb the quiet of any person or neighborhood permitting an animal to disturb the quiet of any person or neighborhood or failure to keep any animal from chasing, frequent, or long continued noise to the disturbance of comfort or repose of any person or neighborhood is declared to be a public nuisance and detrimental to the public health and welfare.

(2) Any person disturbed by a noisy animal shall notify the animal control agent. After this notification is made the animal control agent shall notify the owner or keeper of said animal of the complaint and if this person fails to abate said nuisance after being duly warned shall be in violation of this ordinance.

3. Defecation Removal of Excrement
   No person owning keeping, or having custody of a dog shall allow or permit excrement of such dog to remain on private property without the consent of the owner, occupant thereof, or upon public property. Any person having custody or control of the animal which leaves excrement upon such property shall cause the excrement to be removed immediately.

4. Injuring or Poisoning of Animals
   (1) Any person who accidentally or otherwise strikes an animal with a motor vehicle and injures or kills the animal shall immediately notify the animal control agent, or police department of the location of said incident.

5. Liability for Injury to or Destruction of an Animal at Large
   (1) The Town, its employees and agents shall not be held liable for acts committed or omitted as the result of subduing or taking custody of an animal found running at large, or as the result of subduing, taking custody of, or destroying, any animal that is the act of pursuing, attacking, or wounding a human or another animal.

6. Disposal of Animal Carcasses
   (1) The owner or custodian of an animal may not deposit, nor leave such animal upon its death on a public property or the property of another person. All such dead animals shall be promptly disposed of by cremation, burial, or other sanitary means.
   (2) Newport Public Works Department shall collect all dead animals found on Town owned property or streets, whereas the owner/keeper of such animal can not be located. They shall then dispose of any carcasses found.

7. Relation to County and State Animal Regulations
   It is the intent of the Selectmen, as empowered by the Town Meeting, that the animal control regulations of this ordinance shall supplement and exceed the animal control regulations of the county and the state where no higher restriction is in effect insofar as these regulation conflict with, or refer to the animal control regulations the county or of
the state or regular matters not regulated by the county or state, these regulations will apply within the Town of Newport.

8. Fine for Infraction Violations
The fine for violation of this ordinance shall be as follows:
   1. Fifty (50) dollars for each initial offense;
   2. One hundred (100) dollars for a second violation of the same regulation occurring within six months of the previous offense;
   3. One hundred and fifty (150) dollars for each subsequent violation of the same offense occurring within six months of the previous offense after two or more violations have occurred.

D. REPEAL
The licensing and control of the dog Ordinance, dated November 19, 1974, is hereby repealed. This ordinance being passed by the Town of Newport and adopted by the Selectmen.

Special Town Meeting June 1, 1992
Town of Newport
Board of Appeals Ordinance

§ 1. Establishment. A Board of Appeals is established pursuant to 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 2691 to exercise jurisdiction as provided by this Ordinance.

§ 2. Membership; qualification; and dismissal.

A. The Board of Appeals shall be composed of five (5) Members and two (2) Alternate Members.

B. Members and Alternate Members shall be appointed by the Board of Selectmen to serve three (3) year terms. Terms shall be staggered so no more than two Members’ terms and one Alternate Member’s term expire in the same year. In the event that a Member or Alternate Member does not complete the term to which he or she was appointed, the Board of Selectmen shall appoint a replacement to serve the rest of the term.

C. Alternate Members may participate in the discussion of an item in all respects as Members except voting. In the event that a Member is absent, the Chair shall designate an Alternate Member to vote in the Member’s place.

D. Legal residents of the Town of Newport are qualified to serve as Members and Alternate Members, except that the municipal officers and their spouses may not serve as Members or Alternate Members.

E. The municipal officers may dismiss a Member or Alternate Member for good cause before the expiration of his or her term.

§ 3. Organization and procedure.

A. The Board shall annually elect a Chair and a Secretary from its Members.

B. The Chair shall call meetings of the Board as required and when requested to do so by a majority of the Members or by the municipal officers.

C. A quorum of three (3) Members and/or alternates is required to conduct an official board meeting.

D. The Chair shall preside at all meetings of the board and be the official spokesman of the board. In the Chair’s absence, the Board shall elect a pro tem Chair for that meeting.

E. The Secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The Secretary is responsible for maintaining those records which are required as part of the various proceedings which may be brought before the Board.
F. All proceedings of the Board shall be conducted in accordance with the Freedom of Access law, including its executive session. The Board's records shall be filed in the municipal clerk's office and are subject to public disclosure as provided by the Freedom of Access law.

G. Prior to considering any appeal, Members and Alternate Members shall disclose any potential conflicts of interest. A conflict of interest may be based on having a pecuniary interest in the matter under appeal or a special bias rendering the person unable to make a fair and impartial decision on the matter under appeal. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a person from voting on that issue shall be decided by a majority vote of the Board, excluding the person who is being challenged.

H. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.

I. The Board may receive any oral or documentary evidence but shall exclude of irrelevant, immaterial or unduly repetitious evidence.

J. The transcript or tape recording of testimony, if such a transcript or tape recording has been prepared by the Board, and the exhibits, together with all papers and requests filed in the proceeding, constitute the public record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief.

K. Notice of any decision must be mailed or hand delivered to the petitioner, the petitioner's representative or agent, the planning board, agency or office and the municipal officers within seven (7) days of the Board's decision.

§ 4. Jurisdiction and standard of review.

A. Unless a different standard of review is specified, the Board shall conduct a de novo review.

B. The Board of Appeals is authorized to hear administrative appeals as follows:

   i. From decisions of the Code Enforcement Officer and Planning Board made under the Shoreland Zoning Ordinance. The Board may reverse or modify the decision under appeal only upon a finding that the decision is clearly contrary to the specific provisions of the Shoreland Zoning Ordinance.

   ii. From decisions of the Code Enforcement Officer and Planning Board made under the Land Use Ordinance.

   iii. From decisions of the Code Enforcement Officer made under the Building Ordinance.
iv. From decisions of the Town Manager made under the Town of Newport Personnel Policy, as may be amended from time to time.

v. From decisions of the municipal officers under 28-A M.R.S.A. § 1054.

C. The Board of Appeals is designated as the Town of Newport Board of Assessment Review.

D. The Board of Appeals is authorized to hear variance appeals as provided for in Shoreland Zoning ordinance and Zoning ordinance.

§ 5. Reconsideration.

A. Reconsideration by Motion of a Member of the Board. The Board may reconsider any decision on its own motion within 45 days of its prior decision by a majority vote of the Board to reconsider the matter. The Board shall render a final decision on a reconsidered matter within 45 days of the date of the vote on the original decision.

B. Reconsideration by Motion of any other party. A request by any other party to the Board to reconsider a decision must be filed within ten (10) days of the decision that is to be reconsidered. The Board shall vote whether to reconsider the matter, and if a majority of the Board votes to reconsider the matter, the Board shall render a final decision on a reconsidered matter within 45 days of the date of the vote on the original decision.

C. Upon a vote to reconsider a matter, the Board may conduct additional hearings and receive additional evidence and testimony.

§ 6. Further appeal.

A. Any party may take an appeal, within 45 days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B.

B. Notwithstanding paragraph A, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration.

Attest, a true copy of an ordinance entitled “The Board of Appeals Ordinance of the Town of Newport”, as certified by the municipal officers of the Town of Newport, Maine and adopted by the Town Meeting on the 12th day of March, 2011.

Signature ______________________
Paula A. Scott, Municipal Clerk
Art. I Purpose and Objectives

The purpose and objective of the Board of Appeals of the Town of Newport are those set forth in MRSA Title 30, Section 2411 and those powers and duties delegated to the Board of Appeals by the Municipal Officers or vote of the inhabitants at a Town Meeting and in accordance with the above mentioned enabling law, subject also to the discretion of any and all laws and regulations of the Maine State Legislature.

Art. II Officers and their duties

Section 1. The officers of the Board of Appeals shall consists of a chairman and a secretary.

Section 2. The Chairman shall preside at all meetings and hearings of the Board of Appeals and shall have the duties normally confirmed by parliamentary procedure on such officers.

Section 3. The Chairman shall be one of the members of the Board and shall have the privilege of discussing all matters before the Board and vote thereon.

Section 4. A temporary chairman shall be elected by a majority vote of those members present to preside at meetings in which the chairman is absent.

Section 5. The Secretary shall keep the minutes and records of the Board, prepare the agenda of regular and special meetings with the Chairman, provide notice of meetings to Board members, arrange proper and legal notice of hearings, attend to correspondence of the Board and such other duties as are normally performed by a secretary. The secretary shall be an appointive member of the Board.

Art III Election of Officers

Section 1. Nomination of officers shall be made from the floor of the regular meeting of April each year and the election shall follow immediately thereafter.
Section 2. A candidate receiving a majority vote of the entire membership of the Board shall be declared elected and shall serve for one year or until his successor shall take office.

Section 3. Vacancies in office shall be filled immediately by regular election procedure.

Art. IV Meeting

Section 1. Meetings shall be held at the Newport Town Office within 45 days of receipt of a completed application to appeal, but not less than 30 days from receipt of a completed application to appeal, at 7:00 P.M. in the evening. The Board by resolution may agree, by majority vote, to hold its meetings on any day in the month as required. (Nov 17, 2009)

Section 2. Three members of the Board shall constitute a quorum. The number of votes necessary to transaction business shall be three. A record of the vote shall be kept as a part of the minutes.

Section 3. Special meetings may be called by the Chairman. It shall be the duty of the Chairman to call such a meeting when requested to do so in writing by a majority of the majority of the members of the Board. The notice of such a meeting shall specify the purposes of said meeting and no other business may be considered except by unanimous consent of the Board in writing not less than five (5) days in advance of such special meeting.

Section 4. All meetings at which official action is taken shall be open to the general public.

Section 5. A majority vote of the Board shall be required to amend the bylaws.

Art. V Hearing Procedure

When a petitioner requesting a hearing is notified of the date, time, and place for that hearing in writing, he will also be given adequate preliminary information about the hearing procedure to insure effective preparation of his case. The petitioner shall be permitted to review his file to the hearing. As a minimum, he will be given the following information, which will govern all hearings.

Section 1. Be conducted openly

Section 2. Be open with presentation of the issue by the Chairman of the Board of Appeals

Section 3. Be conducted informally, unless a formal hearing is requested,
without technical rules of evidence, but subject to the requirements of due process.

a. At informal hearings the petitioner and the respondent shall each be limited to one half hour for presentation of their case, unless an extension is granted by the majority of the Board members present.

b. Formal hearings shall be conducted in accordance with rules of evidence.

Section 4. Allow the petitioner and the Town Official the option to present their positions for themselves or with the aid of others, including legal counsel.

Section 5. Give all participants an opportunity to:

a. Present oral or written testimony or documentary
b. Offer rebuttal
c. Question witnesses
d. To examine all evidence presented at the hearings

Section 6. Result in a decision based exclusively on evidence or testimony presented at the hearing.

Section 7. Be permanently recorded, having a written decision filed with evidence introduced at the hearing. The hearing will allow the petitioner to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. A Board of Appeals will not review any material prior to the hearing unless the same material is made available to the petitioner or his representative.

Art. VI Disposition of Decision

A decision of the Board of Appeals will be binding on the Town Official, and will be communicated in writing to the petitioner within a reasonable time after completion of the hearing. Written notice if the decision will contain the following:

Section 1. A statement of the issue
Section 2. Relevant facts brought out at the hearing
Section 3. Pertinent provisions in law or local policy related to the decision
Section 4. The decision and the reasons for it

Section 5. Copies of the notice of the decision will be provided for the petitioner, the hearing record, and the Town Official. The written notice of decision will state that if the petitioner is dissatisfied with the hearing decision, he may appeal the decision under Maine rules of civil procedure, Rule 80B. To take advantage of this right, the petitioner must file a petition for review with the Superior Court within 30 days of receipt of the hearing decision.

Section 6. The Board in its just discretion reserves the right to consider, to its own motion or that of a petitioner, a final decision for the following reasons: fraud, new evidence, excusable neglect. Action to reconsider a decision must commence within one month from written notice of the decision.
Sec. 1 Curfew Hours for Minors:

1.1 Legislative Findings:

(a) In recent years, the Town of Newport has experienced large and growing seasonal influxes of unaccompanied minors from other communities as well as a growing number of unsupervised minors, within our own community. This influx can be attributed to the geographic location of our community, the 24 hour services and accessibility to Interstate 95. In our own community we have seen an increase of juveniles who are allowed, through no parental intervention, to roam at will all hours of the day and night.

(b) During the calendar year ending December 31, 1997, the Town of Newport experienced an increase in assaults, disturbances of the peace, incidents of disorderly conduct, and other crimes and violations committed by minors, for a total of 677 incidents in 1997. A percentage of these crimes and violations have been committed by unaccompanied minors during late night and early morning hours.

(c) Unaccompanied minors, and especially those under the age of eighteen, are particularly susceptible by reason of their lack of maturity and experience to participate in personally harmful and unlawful activities, and to be victims of older perpetrators of crime.

(d) A curfew ordinance for persons under the age of eighteen is necessary for the protection of the general public; to reduce the incidence of crimes, violations, and victimization of minors, and to promote public health, safety and welfare.
1.2 Definitions:

(1) "Curfew hours" means:

11:00 p.m. until 6:00 a.m. the following day.

(2) "Emergency" means:

An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) "Establishment" means:

Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

(4) "Guardian" means:

(A) A person who, under court order, is the guardian of the person of a minor;

(B) A public or private agency with whom a minor has been placed by a court;

(C) A person or public or private agency that harbors or provides shelter to an unaccompanied minor.

(5) "Minor" means:

Any person under eighteen years of age.

(6) "Operators" means:

Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
(7) "Parent" means:

A person who is;

(A) A natural parent, adoptive parent, or stepparent of another person; or

(B) At least eighteen years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) "Public place" means:

Any place to which the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) "Remain" means to:

(A) Linger or stay; or

(B) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) "Serious bodily injury" means:

Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(11) "Unaccompanied minor" means:

Any person under eighteen years of age who is not in the presence, or under the direct supervision, of that person's parent or court-appointed guardian.
1.3 Offenses;

(1) A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the Town during curfew hours.

(2) A parent or guardian of a minor commits an offense if he or she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Town during curfew hours.

(3) The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

1.4 Defenses;

(1) It is a defense to prosecution under subsection 1.3 that the minor was:

(A) Accompanied by the minor's parent or guardian.

(B) On an errand at the direction of the minor's parent or guardian, without any detour or stop.

(C) In a motor vehicle involved in interstate travel.

(D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.

(E) Involved in an emergency.

(E) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence.
G) Attending an official school, religious, or other recreational activity supervised by adults, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults, a civic organization, or another similar entity that takes responsibility for the minor.

(H) Engaging in organized activities for the purpose of exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, or similar rights under the Maine Constitution.

(I) Legally emancipated by court order at the time of the violation.

(2) It is a defense to prosecution under subsection 1.3(3) that the owner, operator, or employee of an establishment promptly notified the Newport Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

1.5 Enforcement:

(1) Any Town of Newport police officer receiving a complaint or observing an apparent violation of this ordinance shall have authority to investigate and issue appropriate summonses. An officer's investigation may include temporary detention of an apparent violator pursuant to and in accordance with Title 17-A MRSA S 17, for the purpose of ascertaining and verifying the identity, age and current residence address of the person being investigated.
(2) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or issue a summons under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection 1.4 is present.

(3) Police officers investigating a complaint or an apparent violation of this ordinance are authorized to contact the parent or guardian of any minor under investigation, for the purpose of verifying the minor's identity, age and current residence address, and for the purpose of returning the minor to the custody of such parent or guardian.

1.6 Penalties:

A person who violates a provision of this ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed $500.

1.7 Severability:

(A) A finding by any court that provisions of this ordinance are unenforceable or void shall not operate as a bar to enforcement of the remaining provisions of this ordinance.

(B) Upon acceptance of this ordinance, any existing ordinance in conflict is hereby repealed.
FLOODPLAIN MANAGEMENT ORDINANCE FOR THE TOWN OF NEWPORT, MAINE
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ARTICLE I-PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Newport, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Newport, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Acts of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Newport, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Newport has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Newport having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Newport, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled “Flood Insurance Rate Map-Town of Newport, Maine, Penobscot County,” dated September 18, 1985, which is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II-PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits, which may be required pursuant to the codes and ordinances of the Town of Newport, Maine.

ARTICLE III-APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:
A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;

E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum, of the:

1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:

   a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.I. and VIII.D.;

   b. from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data.

   c. to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.K.2.a.;

3. a certified statement that bridges will meet the standards of Article VI.L.;

4. a certified statement that containment walls will meet the standards of Article VI.M.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV-APPLICATION FEE AND EXPERT’S FEE

A non-refundable application fee of $30.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V-REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
B. Utilize, in the review of all Flood Hazard Development Permit applications:

1. the base flood date contained in the “Flood Insurance Rate Map-Town of Newport, Maine,” as described in Article I;
2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; Article VI.J.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI-DEVELOPMENT STANDARDS

All development in areas of special flood hazard shall meet the following applicable standards:

A. All Development-All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply-All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems-All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems-On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
E. Watercourse Carrying Capacity-All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential-New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.

G. Non-Residential-New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; or together with attendant utility and sanitary facilities shall:

1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

H. Manufactured Homes-New or substantially improved manufactured homes located within Zone A shall:

1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.;

2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

c. all components of the anchoring system described in Article VI.H.3.a. & b. shall be capable of carrying a force of 4800 pounds.

I. Accessory Structures—Accessory Structures, as defined in Article XIII, located with Zone A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.K.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

J. Floodways—Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
2. is consistent with the technical criteria contained in Chapter 5 entitled “Hydraulic Analyses,” Flood Insurance Study-Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).

K. Enclosed Areas Below the Lowest Floor-New construction or substantial improvement of any structure in Zone A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, “stilts.” or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not “basements” as defined in Article XIII;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

   a. be engineered and certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

      (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

L. Bridges-New construction or substantial improvement of any bridge in Zone A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article VIII.D.; and

2. a registered professional engineer shall certify that:

   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.J.; and
b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

M. Containment Walls-New construction or substantial improvement of any containment wall located within Zone A shall:

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article VIII.D.

2. have structural components capable of resisting hydrostatic and hydrodynamic loads in the effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

N. Wharves, Piers and Docks-New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII-CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant’s written notification; and,

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII-REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX-APPEALS AND VARIANCES

The Board of Appeals of the Town of Newport may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.
The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,
2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
   a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
   b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
   c. that the granting of a variance will not alter the essential character of the locality; and,
   d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI.J. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increase risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.
ARTICLE X-ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI-VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XII-CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII-DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes
the plural, and the plural number included the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

**Accessory Structure**—means a small detached structure that is incidental and subordinate to the principal structure.

**Adjacent Grade**—means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of Special Flood Hazard**—means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Hazard Boundary Map or Flood Insurance Rate Map cited in Article I of this Ordinance.

**Base Flood**—means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**Basement**—means any area of the building having its floor subgrade (below ground level) on all sides.

**Building**—see Structure.

**Certificate of Compliance**—A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer**—any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

**Development**—means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**Elevated Building**—means a non-basement building

a. built, in the case of a building in Zone A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or “stilts;” and

b. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.K.
Elevation Certificate—An official form (FEMA Form 81-31, 07/00, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding—means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.l. of this definition.

Flood Elevation Study—means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Hazard Boundary Map (FHBM)—means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the base flood have been designated.

Flood Insurance Rate Map (FIRM)—means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-prone Area—means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management—means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations—means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
**Floodproofing**—means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway**—see Regulatory Floodway.

**Freeboard**—means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use**—means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure**—means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
   1. By an approved state program as determined by the Secretary of the Interior, or
   2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum**—means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
Lowest Floor—means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.K. of this ordinance.

Manufactured Home—means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision—means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level—means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate map are referenced.

Minor Development—means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.I., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

National Geodetic Vertical Datum (NGVD)—means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL).”

New Construction—means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations adopted by a community and included any subsequent improvements to such structures.

100-year flood—see Base Flood.

Regulatory Floodway—

a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
b. in Zone A riverine areas, the floodway is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine**-means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area**-see Area of Special Flood Hazard.

**Start of Construction**-means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure**-means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage**-means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement**-means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.
Variance—means a grant of relief by a community from the terms of a floodplain management regulation.

Violation—means the failure of a structure or development to comply with a community’s floodplain management regulations.

ARTICLE XIV-ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (b)

I HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE FLOODPLAIN MANAGEMENT ORDINANCE AS ADOPTED BY THE TOWN OF NEWPORT AT THE ANNUAL TOWN MEETING HELD ON MARCH 6TH, 2004, ON FILE AT THE NEWPORT TOWN OFFICE.

ATTEST:   [Signature]
MARCH 27, 2012
BE IT ENACTED AND ORDAINED by the Town of Newport, and it is hereby enacted and ordained as follows:

SECTION 1. PURPOSE. The purpose of this ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain waste water from residential or commercial uses. It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit, and preservation of the health, safety and welfare of the inhabitants of the Town of Newport.

SECTION 2. DEFINITIONS. Unless the context specifically and clearly indicated otherwise, the meaning of terms in this Ordinance shall be as follows:

"Authority" shall mean Licensed Plumbing Inspector (LPI) of the Town of Newport.

"Holding Tank:" A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of waste water at another site.

"Improved Property" shall mean any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure waste water shall or may be discharged.

"Municipality" shall mean the Town of Newport, Penobscot County, Maine.
"Owner" shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality.

"Person" shall mean any individual, partnership, company, association, corporation, or other group or entity.

"Waste water" shall mean any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes from the discharge of water closets, laundry tubs, washing machines, sinks, garbage disposers, dishwashers, or other sources of water-carried wastes of human origin. The term specifically excludes industrial, hazardous, or toxic wastes and materials.

Section 3. Rights and privileges granted. The Licensed Plumbing Inspector is hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank waste water and the collection and transportation thereof-

Section 4. Rules and regulations to be in conformity with applicable law. All such Ordinances adopted by the Town of Newport shall be in conformity with the provisions herein, all other ordinances of the Town, all applicable laws, rules and regulations of the administrative agencies of the State of Maine. Holding tanks cannot be used for seasonal conversion, see Subsection 301.3 of the State of Maine Plumbing Code or new construction within the shoreland zone of a major water course as contained in the Town Of Newport Shoreland Zoning Ordinance.

Section 5. Exclusiveness of rights and privileges. The collection and transportation of all waste water from any improved property utilizing a holding tank shall be done solely by or under the direction and control of, the Licensed Plumbing Inspector, and the disposal thereof shall be made
section 6. Duties of owner of improved property.
The owner of an improved property that utilizes a holding tank shall:

A. Maintain the holding tank in conformance with this or any other provisions of applicable law, the rules and regulations of the Town of Newport, and any administrative agency of the State of Maine; and

B. Permit only Maine Department of Environmental Protection licensed septage waste haulers to collect, transport, and dispose of the contents therein and to provide the LPI a copy of the disposal manifest within 14 days.

Section 7. Alternative disposal. An alternative means of waste disposal shall meet first time system criteria. Replacement system criteria shall not be considered.

Section 8. Violations and Penalty. Any person who violates any provisions of this Ordinance shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One-Hundred ($100.00) and not more that Three-Hundred dollars ($300.00) in addition to costs and legal fees. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorneys' fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 9. Abatement of nuisances. In addition to any other remedies provided in this ordinance, any violation of this Ordinance shall constitute a nuisance and shall be abated by the municipality or
Licensed Plumbing Inspector by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

Section 10. Repeal. All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

Section 11. Severability. If any sentence, clause, Section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

Section 12. Effective date. This ordinance shall become effective on the day of its adoption.

CERTIFIED: The Newport Board of Selectmen being the municipal officers hereby certify to the municipal clerk that this is a true copy of the Holding Tank Ordinance of the Town of Newport, Maine.

Signed, November 27th, 1996
Newport Board of Selectmen
Albert Worden
Thomas J. Breitweg, Jr.
James Brann

ATTEST: A true copy of an ordinance entitled "Holding Tank Ordinance of the To of Newport" as certified to me by the municipal officers on the 27th day of November, 1996

Signed, November 27, 1996
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;
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
   Continuation 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.
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.
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 area 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 that 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 that 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.
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

<table>
<thead>
<tr>
<th>SYMBOL</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>V</td>
<td>Village District</td>
</tr>
<tr>
<td>MR-1</td>
<td>Mixed Residential 1 District</td>
</tr>
<tr>
<td>MR-2</td>
<td>Mixed Residential 2 District</td>
</tr>
<tr>
<td>C/I</td>
<td>Commercial/Industrial District</td>
</tr>
<tr>
<td>C</td>
<td>Commercial District</td>
</tr>
<tr>
<td>R</td>
<td>Rural District</td>
</tr>
<tr>
<td>WD</td>
<td>Nokomis Pond Water District</td>
</tr>
</tbody>
</table>

2. PERMIT SYMBOLS

<table>
<thead>
<tr>
<th>SYMBOL</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
<td>Uses Allowed Without a Permit</td>
</tr>
<tr>
<td>N</td>
<td>Uses Prohibited Within District</td>
</tr>
<tr>
<td>C</td>
<td>Use Requires a Code Enforcement Permit</td>
</tr>
<tr>
<td>P</td>
<td>Use Requires a Planning Board Permit</td>
</tr>
</tbody>
</table>

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

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

#### F. SCHEDULE OF USES-MATRIX (cont.)

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<td>2. RESIDENTIAL ACTIVITIES</td>
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<tr>
<td>a.) Single-family Detached dwelling</td>
<td>C</td>
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<td>N</td>
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<tr>
<td>aa. Condominium / Town Houses</td>
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<tr>
<td>b.) Single-family Mobile Home</td>
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<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>C</td>
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<tr>
<td>c.) Multi-family Dwelling: duplexes</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>d.) Multi-family Dwelling: 3 or more families, including apartments;</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
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<tr>
<td>e.) Mobile home parks;</td>
<td>P</td>
<td>P</td>
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<td>N</td>
<td>N</td>
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<tr>
<td>f.) Nursing Home/Boarding Care Facility</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>g.) Home Occupations;</td>
<td>C</td>
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<td>C</td>
<td>C</td>
<td>C</td>
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<td>h.) In-Law apartments;</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>C</td>
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<tr>
<td>i.) Group homes with up to 3 residents</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>j.) Group homes with more than 3 Residents</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>P</td>
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<tr>
<td>k.) Accessory uses or structures that are essential for the exercise of uses listed above.</td>
<td>C</td>
<td>C</td>
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LAND USE ORDINANCE OF THE TOWN OF NEWPORT

SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

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<td></td>
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<tr>
<td>a.) Hospital</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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</tr>
<tr>
<td>b.) Medical Clinic, Facilities and Services</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
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</tr>
<tr>
<td>c.) Government Facilities &amp; Services</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>d.) Public Schools</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<td>e.) Private Schools (under 15 students)</td>
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<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<td>P</td>
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</tr>
<tr>
<td>f.) Day Care Centers</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>C</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>g.) Churches</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>C</td>
<td>N</td>
<td>C</td>
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<tr>
<td>h.) Cemetery</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
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</tr>
<tr>
<td>i.) Fraternal organizations</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>P</td>
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<tr>
<td>j.) Community Center</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
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<tr>
<td>k.) Accessory uses and structures that are essential for the exercise of uses listed above.</td>
<td>C</td>
<td>C</td>
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<td>N</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</tr>
<tr>
<td>l.) Addiction Treatment Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<tr>
<td>m.) Marijuana Dispensing Facilities</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
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SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

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<th>R</th>
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<tr>
<td>a.) Automobile supplies</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<td>N</td>
<td>N</td>
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<tr>
<td>b.) Automobile Body Repair</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
<tr>
<td>c.) Automobile Repair/Service</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
<tr>
<td>d.) Banks/Credit Unions</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>C</td>
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<tr>
<td>e.) Beauty Shops</td>
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<td>N</td>
<td>N</td>
<td>C</td>
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<td>f.) Sporting Camps</td>
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<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
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<td>N</td>
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<tr>
<td>g.) Clothing Store</td>
<td>C</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>C</td>
<td>N</td>
<td>N</td>
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<tr>
<td>h.) Fireworks Sales</td>
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<td>N</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<tr>
<td>i.) Craft Shops</td>
<td>C</td>
<td>N</td>
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<td>N</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>C</td>
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<tr>
<td>j.) Florist shop/Greenhouse</td>
<td>C</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>C</td>
<td>C</td>
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<tr>
<td>k.) Fuel Oil Sales</td>
<td>C</td>
<td>N</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>N</td>
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<tr>
<td>l.) Funeral Homes</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>C</td>
<td>C</td>
<td>N</td>
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<tr>
<td>m.) Professional Offices</td>
<td>C</td>
<td>N</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>N</td>
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<tr>
<td>n.) Professional Offices Complex</td>
<td>C</td>
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<td>o.) Pharmacy</td>
<td>C</td>
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<td>C</td>
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<tr>
<td>p.) Restaurant</td>
<td>P</td>
<td>N</td>
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<td>C</td>
<td>C</td>
<td>P</td>
<td>N</td>
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<tr>
<td>q.) Animal Hospital/Clinic</td>
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<td>N</td>
<td>P</td>
<td>C</td>
<td>C</td>
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<td>q.) Take-Out Restaurant (no interior seating.)</td>
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<td>r.) Recreation Vehicle Sales &amp; Service</td>
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<td>P</td>
<td>N</td>
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<td>s.) Automobile Sales</td>
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<td>P</td>
<td>N</td>
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<td>t.) Boarding Kennels</td>
<td>N</td>
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<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>aa. Commercial Kennels</td>
<td>N</td>
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<td>N</td>
<td>P</td>
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<td>u.) Bed and Breakfast</td>
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<td>C</td>
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<td>v.) Motel, hotels, Inns, maximum of ten rooms</td>
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<td>N</td>
<td>P</td>
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<td>w.) Motel, hotel and Inns, more than ten rooms</td>
<td>N</td>
<td>N</td>
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<td>N</td>
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<td>aa.) Campgrounds</td>
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<td>bb.) Retail Establishments of more than 5,000 square feet</td>
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<td>N</td>
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<td>cc.) Retail Establishments less than 5,000 square feet,</td>
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<td>N</td>
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<td>not listed above</td>
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<td>dd.) Accessory uses and structures that are essential for</td>
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<td>C</td>
<td>C</td>
<td>C</td>
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<td>the exercise of uses listed above.</td>
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<td>ee.) Self-storage buildings</td>
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<td>C</td>
<td>C</td>
<td>C</td>
<td>N</td>
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<td>ff.) Sales and service of motor homes and camper trailers</td>
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<tr>
<td>a.) Lumber yard, sawmill</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>C</td>
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<tr>
<td>b.) Transportation Facility and Terminal Yard</td>
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<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
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<tr>
<td>c.) Bulk Oil and Fuel Tank Storage in excess of 50 gallons except for on-site heating and cooking purposes</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
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<td>N</td>
</tr>
<tr>
<td>d.) Salvage and Recycling Facility</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>e.) Wholesale Business Facility</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>f.) Light manufacturing Facility</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
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<tr>
<td>g.) Disposal of Solid Waste</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>P</td>
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<td>h.) Sewage Treatment Facility</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>N</td>
<td>P</td>
<td>N</td>
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<tr>
<td>i.) Wood Products Manufacturing Facility</td>
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<td>N</td>
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<td>P</td>
<td>N</td>
<td>N</td>
<td>N</td>
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<tr>
<td>j.) Print/Publishing Facility</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
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<tr>
<td>k.) Warehousing Facility</td>
<td>N</td>
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<td>P</td>
<td>N</td>
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<td>l.) Distributing Facility</td>
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<td>N</td>
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<tr>
<td>m.) Processing Facilities (industrial)</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>N</td>
<td>N</td>
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<tr>
<td>n.) Processing Facilities (agricultural)</td>
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<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>o.) Accessory uses and structures that are essential for the exercise of uses listed above</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
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</table>
SECTION IV: SCHEDULE OF USES (cont.)

F. SCHEDULE OF USES-MATRIX (cont.)

<table>
<thead>
<tr>
<th>Activities/Districts</th>
<th>MR1</th>
<th>MR2</th>
<th>C/I</th>
<th>I</th>
<th>C</th>
<th>R</th>
<th>WD</th>
<th>V</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.) Land management roads with water crossings of minor flowing waters.</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>C</td>
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<tr>
<td>b.) Land management roads with water crossings of standing waters and of major flowing waters.</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>C</td>
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<tr>
<td>c.) Road construction projects, other than land management roads, and not part of a project requiring a Planning Board permit</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>N</td>
<td>C</td>
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<tr>
<td>d.) Road construction projects, other than land management, which are part of projects requiring Planning Board Review</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>e.) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops.</td>
<td>P</td>
<td>P</td>
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<td>P</td>
<td>P</td>
<td>P</td>
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</tr>
<tr>
<td>f.) Accessory uses and structures that are essential for the exercise of uses listed above.</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</table>
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.
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 cleanup 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;
SECTION V: LAND USE STANDARDS –(cont.)

3. The development shall not unreasonably increase the rate or volume or 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 then 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-regrading 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.
LAND USE ORDINANCE OF THE TOWN OF NEWPORT

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
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 area 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.
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.
LAND USE ORDINANCE OF THE TOWN OF NEWPORT

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:
(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, to wit, all
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 5.7 sq. 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;
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;

f. 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:
(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.
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;
(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
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
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 or 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.
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:

<table>
<thead>
<tr>
<th>Mixed Residential District</th>
<th>(MR1)</th>
<th>(MR2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimensional Requirements</td>
<td>Mixed</td>
<td>Residential</td>
</tr>
<tr>
<td>Minimum Lot size</td>
<td>District</td>
<td>District</td>
</tr>
<tr>
<td>Municipal Sewer</td>
<td>20,000 Sq. Ft.</td>
<td>1 Acre*</td>
</tr>
<tr>
<td>Subsurface Disposal</td>
<td>30,000 Sq. Ft.</td>
<td>1 Acre*</td>
</tr>
</tbody>
</table>

* 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.
### B. DIMENSIONAL REQUIREMENTS (cont.)

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

- Variable setback designation indicates that the setback shall be established at provided in Section V, C
### Village District Dimensional Requirements

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Village District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Lot Size</td>
<td>20,000 sq. ft.</td>
</tr>
<tr>
<td>Minimum Lot Size per Dwelling Unit</td>
<td>4,000 sq. ft.</td>
</tr>
<tr>
<td>Minimum Road Frontage</td>
<td>75 feet</td>
</tr>
<tr>
<td>Minimum Front Yard Setback</td>
<td>variable*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Setback Distance</th>
<th>Principal Structures</th>
<th>Accessory Structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;100’</td>
<td>15’</td>
<td></td>
</tr>
<tr>
<td>75-100</td>
<td>10’</td>
<td></td>
</tr>
<tr>
<td>&lt;75’</td>
<td>5’</td>
<td></td>
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</tbody>
</table>

| Minimum Rear Yard Setback            | 15 feet            |
| Principal Structures                  |                    |
| Accessory Structures                  |                    |

<table>
<thead>
<tr>
<th>Setback Distance</th>
<th>Principal Structures</th>
<th>Accessory Structures</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt;100’</td>
<td>15’</td>
<td></td>
</tr>
<tr>
<td>75-100</td>
<td>10’</td>
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<tr>
<td>&lt;75’</td>
<td>5’</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Maximum Building Height</th>
<th>Village District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Structures</td>
<td>35’</td>
</tr>
<tr>
<td>Accessory Structures</td>
<td>18”</td>
</tr>
</tbody>
</table>

- Variable setback designation indicates that the setback shall be established as provided in Section V, C.
### B. DIMENSIONAL REQUIREMENTS (cont.)

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

- Height limitations shall apply to building not essential services associated with the development.
B. DIMENSIONAL REQUIREMENTS (cont.)

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

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

- All Development Proposals within this identified district shall be provided to the Newport Water District
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 setback 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.
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 on 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.
SECTI ON VI: ADM INISTRATION 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.
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.
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
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
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.
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 form 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.
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
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 or 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.
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
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.
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 form 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 form 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 that 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.
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 manufactured 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 form 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
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.
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.
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.
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 area 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
LICENCES AND PERMITS

SECTION 101. LICENSE REQUIRED: APPLICATION

Any person required by the provisions of this ordinance to obtain from the Town, (1) a license to engage in the operation, conduct or carrying on of any trade, profession, business or privilege, or (2) a permit to commence, proceed or continue to perform any act, shall make written application therefor over his signature to the Town Clerk upon forms provided by the Town Clerk and shall state such facts as may be required. Applications shall be accompanied by the required fee which will be returned if the license or permit applied for is not issued.

SECTION 102. MUNICIPAL LICENSING AUTHORITY

The Municipal Officers are the licensing authority of the Town of Newport, unless otherwise provided by ordinance or by law.

SECTION 103. TOWN CLERK’S DUTY

The Town Clerk is hereby authorized and directed to receive all applications required by this ordinance, and to act thereon with reasonable promptness consistent with the nature of the matter, either by posting official notices and advertisements, or issuing the license/permit upon approval of the Municipal Officers.

SECTION 104. CERTIFICATION PROCEDURE

In all cases where the certification of any Municipal Official is required as a condition precedent to approval of any license, the Town Clerk shall notify promptly such officer and shall not submit the application to the Municipal Officers unless all required certifications are received, as evidence by signature on the application. Such certification shall be based upon actual inspection within ten (10) working days of receipt of the application by the Town Clerk, and findings as follows:

1. Code Enforcement Officer: That the premises comply with all applicable state laws and local ordinances, including but not limited to the BOCA National Codes;

2. Health Officer: That the applicant and the premises in which the applicant proposes to conduct the trade, profession, business or privilege comply with all applicable State laws and local ordinances relative to health and sanitation, including but not limited health, plumbing and sanitation ordinances;

3. Police Chief: That the applicant is of good moral character and that the safety and good order will not be affected adversely;

4. Fire Chief: That the premises comply with all applicable State laws and local ordinances, including but not limited to Fire Protection.
SECTION 105. LICENSE ISSUED

Upon approval with the requirements of this ordinance, the Municipal Officers shall, through the Town Clerk, issue the license or permit forthwith. The Town Clerk shall preserve all applications for license and other papers filed in connection therewith as a public record in the Town Office for a period of 5 years, and shall endorse thereon the dates of filing, and the granting or denial of said license, and shall make an abstract of any other proceedings taken in connection therewith.

SECTION 106. EFFECTIVE DATE OF LICENSES

The effective date of all licenses shall be the actual date of issuance thereof by the Town Clerk, except where the licenses are issued for a fixed period of time.

SECTION 107. DISPLAY OF LICENSE

Any person to whom a license has been issued shall keep the license exhibited at all times in a conspicuous place in the place of business for which the license was granted if the business is conducted at a fixed place; otherwise the applicant shall carry such license on his/her person when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted. Any person receiving a license shall produce the license for examination when so requested by any Town Official.

SECTION 108. INSURANCE

When policies of insurance are required, such policies shall be approved as to substance and form by the Town Manager. Such policies shall be issued by insurance companies duly admitted to transact business in Maine and public liability policies shall be at least in the following amounts:

1. Bodily injury liability limits of one hundred thousand dollars ($100,000) for one person and three hundred thousand dollars ($300,000) for any number of persons in the same accident, and
2. Property damage liability limit of fifty thousand dollars ($50,000).

SECTION 109. SUSPENSION OR REVOCATION OF LICENSE

Any license issued may be suspended or revoked by the Municipal Officers for cause. The person to whom such license was issued shall have the right to a hearing before the Appeals Board on such action, provided a written request therefor is filed with the Town Clerk within ten (10) days after receipt of notice of such suspension or revocation. The action taken by the Board after such hearing shall be final. No refund of any part of a
license shall be made in connection with the suspension or revocation of any license for cause.

As used in this section, “cause” shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license is granted under the provisions of this ordinance, or any premises or facilities in connection therewith, which act, omission or conditions is:

1. Contrary to the health, morals, safety or welfare of the public;

2. Unlawful or fraudulent in nature;

3. Unauthorized or beyond the scope of the license granted;

4. Forbidden by the provisions of Federal or State laws or Town ordinance, or any duly established rule or regulation of the Town applicable to the trade or profession for which the license has been granted; or

5. The result or failure to comply continuously with all conditions required as precedent to the approval of the license.

SECTION 110. TERM OF LICENSE

All licenses shall expire on the last day of May after date of issuance, except where the required fee indicates a lesser period, and except when otherwise provided by law.

SECTION 111. TRANSFERABILITY OF LICENSE

No license issued under this ordinance shall be transferable unless specifically authorized by the provisions of this ordinance or by the action of the Municipal Officers.

SECTION 112. ENFORCEMENT

It shall be the duty of the Police Chief to require prompt compliance with the provisions of this ordinance, and to prosecute all violators thereof.

SECTION 113. PENALTY

Unless otherwise specifically provided by law, the penalty for failure to obtain a license, as and when required by this ordinance or for operating after a license has been suspended or revoked, shall be not less than ten dollars ($10) nor more than one hundred dollars ($100.00) for each separate offense. Each day’s violation of any provision of this ordinance shall constitute a separate offense.
SECTION 114. LICENSE & PERMIT FEE SCHEDULE

The following schedule of fees is hereby made effective: Town Meeting 1989

“Attest, a true copy of an ordinance entitled Licenses and Permits Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 2nd day of March, 1989.”

Date: 08/31/2012

Signature: Paula Scott
Municipal Clerk
TOWN OF NEWPORT
MASS GATHERING ORDIANCE

AN ORDINANCE PROVIDING FOR MASS GATHERINGS

Section 1 Purpose and Authority:
This ordinance is adopted pursuant to the Home Rule powers under the Maine Constitution and 30-A l\1R.SA Sec. 3001.

WHEREAS, the inhabitants of the Town of Newport are concerned that public health and safety problems may result when crowds assemble for any event.

WHEREAS, matters relating to waste disposal, potable water, first aid, public sanitation, traffic safety, law enforcement, adherence to alcohol and controlled substance laws, obstruction and damage to public and private ways, and destruction of public and private property are a concern to the citizens of Newport.

Section 2. Administration of Ordinance:
The Town of Newport Code Enforcement Officer shall be responsible for the administration and enforcement of this ordinance.

Section 3 Permit Issued by the Municipal Officers Required:
No person, corporation, partnership, association or group of any kind shall sponsor, promote or conduct any pageant, festival, concert, parade, amusement show, theatrical performance, or other outdoor event where more than 1000 people gather for three (3) or more hours up to a maximum of 24 continuous hours without first obtaining an assembly permit, hereafter referred to as permit, from the Municipal Officers.

Section 4. Application:
Any person or entity seeking issuance of an assembly permit must make an application to the Code Enforcement, hereafter referred to as CEO, on a form (s) provided by the Code Enforcement Officer, that contains plans and documentation relating to all items in applicable Sections below no later than forty (40) days prior to the event. The CEO shall accept the application as complete or reject the application within 21 days from date of filing of application.

Section 5 Permit Fees:
The applicant must pay a $500.00 fee when submitting the application for permit plus all costs for advertising and technical and professional review deemed necessary by the Town.

Section 6 Contents of the Application:
A. The applicant shall furnish a plan accurately drawn to scale showing the actual dimensions, and distances from each, of each separate area to be used with designated locations for drinking water, toilet and sanitation facilities, waste containers, first aid
facilities, parking areas, placement of any stages or entertainment areas, seating areas, food service areas and sleeping and/or camping areas if an overnight event is proposed.

B. The applicant shall provide a detailed plan for seating the estimated number of attendees. The plan shall include methods to be used to discourage the presence of persons not holding tickets or invited to attend. The applicant shall further provide assurances that all event promotion and publicity will immediately cease when all tickets have been sold.

C. The applicant shall provide assurances and detail methods to be used to insure that individuals not invited or holding tickets will not be permitted to use parking, toilet, or camping facilities under the control of the applicant and that no food or beverage will be sold to non-ticket holders or non-invited individuals on premises under the control of the applicant except persons employed or authorized to provide support service for the event.

D. Applicant shall submit to the CEO in writing detailed assurances relating to each standard in Section 7 below.

Section 7 Standards for Permit Issuance:
The Municipal Officers shall issue a permit to the applicant upon finding that the applicant has the ability and financial resources to comply with and complies with the following standards, considering the size, duration and nature of the proposed event: These standards shall be met for each separate location at which the event or parts thereof take place:

A. Adequate supplies of potable water shall be available and reasonably spaced throughout the event area;

B. Adequate toilet and sanitation facilities shall be available and reasonably spaced throughout the event area;

C. The area to be used is adequately equipped with suitable containers for disposal of solid waste and/or garbage and that provisions are made for the removal and disposal and recycling of such waste and garbage;

D. Adequate first aid facilities and qualified medical personnel shall be provided;

E. Adequate parking facilities are available in the area in which event is to be held;

F. The event will not impair the safety and orderly flow of traffic on public ways and that adequate provision has been made for the control of traffic before, during and after the event; and

G. Adequate police protection by state certified officers be provided;
H. Adequate fire protection is provided;

I. Adequate sleeping and/or camping areas are provided if an overnight or continuous event;

J. Adequate seating capacity for maximum attendance and/or number of tickets to be sold;

K. Impose any condition reasonably necessary to insure that the event complies with the standards set forth above for issuance of the permit as of the date of the event.

Section 8 Number of Tickets Sold
No more than the number of tickets specified in the application shall be issued for a single event. A "ticket" includes any receipt or token of eligibility to attend the event whether or not a piece of paper or other physical evidence of payment is issued to the attendee. Persons not holding valid tickets for an event for which tickets have been sold or given away shall not be permitted to attend. Promptly after all the tickets have been sold or the occurrence of the event, which ever occurs first, the applicant shall furnish to the CEO a sworn statement as to the number of tickets sold or otherwise distributed.

Section 9 Public Hearing
No permit shall be granted by the Municipal Officers unless the applicant satisfies the Municipal Officers that proper facilities will be available for the proposed event in the areas to be used and that adequate precautions have been taken to ensure the public health, safety and welfare of attendees and the general public.

Within 21 days of the determination by CEO that the application is complete the Municipal Officers shall hold a public hearing on the completed application after advertising in a newspaper (s) having general circulation in the Town, no less than five (5) days in advance of the public hearing. The Municipal Officers shall issue the permit when satisfied that adequate provisions have been made to protect the health and safety of the residents of the Town and the persons attending the event. All assurances made and obligations assumed by the applicant in the application shall be deemed to be conditions upon issuance of the permit. In issuing the permit, the Municipal Officers may impose such additional conditions as may be reasonably required to assure compliance with the terms of the application or the provisions of this ordinance. The Municipal Officers may decline to issue the permit if the event is scheduled on a holiday when so many non-residents will be present in Town for reasons having nothing to do with the event that the public and private facilities will be insufficient to meet the needs of persons attending the event as well as other persons who are present because of the holiday. The Municipal Officers shall issue or deny the permit not more 35 days after the application is deemed complete by the CEO. If permit is denied, the reasons will be given to the applicant in writing.
Section 1. Variance:
In any case in which strict compliance with the terms of this ordinance will cause the Applicant to suffer undue hardship and the Municipal Officers have reasonably determined that waiving strict compliance with the terms of this ordinance will not compromise its enforcement or the accomplishment of its purposes, they may issue a variance specifying in writing its terms and why it has been granted.

Section 11 Liability Insurance:
Prior to receiving a valid permit from the CEO the applicant shall furnish to the CEO a Certificate of Insurance, issued by a company licensed by the State of Maine, with the Town of Newport named as co-insured providing coverage of at least $600,000,00 with respect to the death or injury of one or more persons in connection with the event. Such insurance policy shall also provide coverage for property damage in the amount of at least $100,000,00. The insurance policies in question shall contain a provision requiring at least ten (10) days notice be given the Town prior to cancellation of all or part of the policy. If such cancellation occurs prior to the event, the permit issued by the Town is void.

Section 12 Security Bond:
Prior to receiving a valid permit from the CEO, the applicant shall file with the CEO a surety bond issued by a company licensed by the State of Maine in an amount equal to $50,000.00. Cash or negotiable securities acceptable to the Town Treasurer may be pledged to satisfy the provisions of this section. The bond shall be used to satisfy any valid claims for damage to real or personal property caused by the permittee, his/her agents and/or employees or by persons attending the event and to reimburse expenses incurred in cleaning up or otherwise incurred as a direct result of the mass gathering for which the permit was issued. The permittee shall make an irrevocable designation of an agent within the State of Maine to receive notices in connection filing of claims against the security bond or to receive notices of permit issuance or revocation. Any person, including the Town, having such a claim shall file notice of a claim upon the bond with the applicant or his/her agent within 90 days after the claim arose.

Section 13 Private Landowner Authority:
In the event that private property is to be used in connection with such event, the applicant shall file with the CEO a notarized affidavit signed by the land owner (s) that applicant has authority to use such private property and that police officers are authorized to enter property owned or under the control of the applicant in the vicinity of the event at reasonable times.

Section 14 Duties of Permute:
The Permute shall comply with all conditions of any permit issued and with all applicable local, state and federal laws and ordinances as well Maine Department of Health and Human Services rules and regulations and further insure that attendees and/or vendors comply with applicable laws, ordinances and regulations.
Section 15. Violations and Penalties

A. Whoever violates any provision of this ordinance or fails to comply with any stated permit condition or restriction shall be fined not less than $100.00 nor more than $2,500 to be recovered, on complaint, to the use of the Town of Newport. Each days violation shall constitute a separate offense. In addition the Town may seek an injunction when necessary to prevent the applicant from promoting, publicizing or conducting the event.

B. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorney's fees, expert witness fees, and costs.

Section 16. Revocation

The CEO shall have the authority to revoke any license issued hereunder in consequence of a violation of any conditions of the permit or any noncompliance with the standards for issuance of permit.

Section 17. Savings Clause

If any section or part thereof of this ordinance shall be held invalid the remaining provisions thereof shall remain in full force and effect.

Section 18. Effective Date

This ordinance shall become effective on adoption by the Newport Town Meeting.

Certified: The Newport Board of Selectmen being the Municipal Officers hereby certify to the Municipal Clerk that this is a true copy of the Mass Gathering Ordinance of the Town of Newport, Maine.

Signed February 21, 1996

ATTEST: A true copy of an ordinance entitled "Mass Gathering Ordinance of the Town of Newport" as certified to me by the municipal officers on the 21st day of February 1996.

Signed, February 22, 1996

Deanna M. Morse, Clerk.
OBSCENITY ORDINANCE OF THE TOWN OF NEWPORT, MAINE

Section 1. Purpose

The two purposes of this ordinance are (1) to prohibit certain acts of commercial exploitation of human sexuality in commercial or business establishments within the Town of Newport in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and (2) to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional police power to protect societal order, morality and physical and emotional health without infringing on protected First Amendment rights.

Section 2. Definitions

As used in this Article, the following words shall have the following meanings:

Material means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.

Obscene means material or a performance that:

A. The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

B. Depicts or describes:

1. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

2. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designated and marketed as useful primarily for stimulation of the human genital organs; and

C. Taken as a whole, lacks serious literary, artistic, political or scientific value.

Obscene device means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.
Patently offensive means so offensive on its face as to be intolerable to the average person, applying contemporary community standards.

Performance means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

Prurient interest in sex means a shameful or morbid interest in sex.

Wholesale promote means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

Section 3. Promotion of obscene material or devices prohibited.

A. A person commits an offense if, knowing its content and character, he wholesale promote or possesses with intent to wholesale promote any obscene material or obscene device.

B. A person commits an offense if, knowing its content and character, he:
   1. Promotes or possesses with intent to promote any obscene material or obscene device; or
   2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

C. A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

D. A person who possesses six (6) or more obscene devices or six (6) or more obscene articles, whether such devices or articles are similar or identical, is presumed to possess them with intent to promote the same.

E. This section not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct occurs in the course of law enforcement activities.

Section 4. Penalties

A. The violation of any provision of this Article shall be punishable by a fine not less than five hundred dollars ($500) nor more than one thousand dollars ($1000) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of
may enjoin or abate any violation of this Article by appropriate action, including but not limited to, revocation of any Town license for a premises or commercial or business establishment in which the violation occurs.

2. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorneys' fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 5. Severability

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Signed
February 15, 1995

"Attest, a true copy of an ordinance entitled Obscenity Ordinance of the Town of Newport as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 3rd day of March 1995."

Date: 08/31/2012

Signature: Municipal Clerk
TOWN OF NEWPORT

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Administration by the Efficiency Maine Trust

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Town of Newport wishes to establish a PACE program; and

NOW THEREFORE, the Town of Newport hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the Town of Newport declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Newport. The Town of Newport declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The Town of Newport enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, et seq.).
ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “the Town of Newport Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

   A. Will result in increased energy efficiency and substantially reduced energy use and:

      (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

      (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

   B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. **Municipality.** “Municipality” shall mean the Town of Newport.

3. **PACE agreement.** “PACE agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. **PACE district.** “PACE district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.
6. **PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

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**ARTICLE III - PACE PROGRAM**

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.
ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality’s adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

   A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

      i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality’s PACE district;

      ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

      iii. the Trust, or its agent, will disburse the PACE loan to the property owner;

      iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

      v. the Trust, or its agent, will be responsible for collection of the PACE assessments;

      vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;

      vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.
B. **Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality’s PACE program.

D. **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. **Liability of Municipal Officials; Liability of Municipality**

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article V, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Attest, a true copy of an ordinance entitled Property Assessed Clean Energy Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport Maine, and adopted by the Town Meeting on the 10th day of March, 2012.

Signature: Paula A. Scott
Municipal clerk

Efficiency Maine Trust, Model Ordinance Version 2.3 (Administration by the Trust): Property Assessed Clean Energy (PACE) Ordinance (August 9, 2011)
TOWN OF NEWPORT
RECYCLING ORDINANCE

SECTION 1. PURPOSE: The purpose of the recycling ordinance is to establish a system of administrative controls that are consistent with both local and state commitments relating to waste reduction under the state’s solid waste management law.

SECTION 2. RECYCLING COMMITTEE:

A. A recycling committee is hereby established. The Board of Selectmen shall appoint ten (10) members to serve on the committee. Members shall serve for one (1) year terms and may be reappointed to additional terms at the discretion of the selectmen.

B. The committee shall make recommendations to the selectmen regarding the operation and maintenance of a recycling program for the town.

C. The chairperson of the committee shall be elected by the members of the committee to moderate the committee’s meetings. The chairperson shall also perform the following duties:

1. Monitor the establishment and maintenance of the town’s recycling program;

2. Ensure that the program is consistent with both local and state requirements;

3. Represent the recycling committee’s views at town meetings or any other meeting;

4. Record, maintain and file minutes with the town clerk and ensure that the public is kept aware of recycling initiatives.

SECTION 3. RECYCLING PROGRAM:

A. Effective August 1, 1991, all persons, businesses and haulers of solid waste disposing of solid waste at the town’s solid waste facility shall separate that waste by recycling categories designated pursuant to this ordinance and deposit it in the areas designated by the attendant for that purpose. The term “solid waste” shall be defined as provided in 38 MRSA 1303-C.

B. The following items are declared to be recyclable and shall be separated as outlined below for disposal at the town’s solid waste facility:

1. GLASS:
   a. Must be clean.
   b. Must be separated by color.
   c. No lids, labels are permitted.
2. CORRUGATED CARDBOARD & BROWN PAPER BAGS:
   a. No waxed cardboard.
   b. No recycled or foreign cardboard

3. TIRES:
   a. Must be off rim.
   b. There will be a fee:

      1. $.50 for each passenger car tire, size up to 800 (1995).
      2. $2.00 for each truck tire, size 800-1200 (1995).
      3. $12.50 for each equipment tire, size over 1200 (1995).

4. NEWSPRINT:
   a. Newspapers and all inserts.
   b. No magazines
   c. Not necessary to be tied; just contained.

5. ALL METALS:
   a. No automotive parts
   b. White goods-$0.00 each (1995).
      1. Freon containing appliances - $10.00 each (1995).
   c. Brown goods-$2.00 each, TV’s, etc.
   d. Tin cans (must be clean) and other metals-no charge.

6. MOTOR OILS:
   a. Must be contained.

(NOTE: CATEGORIES/FEES/REQUIREMENTS IN PARAGRAPHS 7,8,9,10
BELOW ADDED AND ADOPTED BY BOARD OF SELECTMEN IN JUNE OF
1995)

7. BULKY FURNITURE:
   a. Sofas, couches, stuffed chairs, box springs and mattresses-$5.00 each.

8. SHINGLES & Roofing MATERIALS:
   a. Per ton-$33.00.
   b. Attendant will estimate tonnage based on cu.yds. for shingles and roofing
   materials if load has not been weighed by user.

9. DEMOLITION DEBRIS:
   a. Contractors-$33.00 per ton, all size loads.
   b. Residential-$15.00 for regular size pickup, ¼ to full load.
      1. No charge for less than ¼ load.
c. Demolition debris is sheetrock, treated wood, scrap wood, insulation and flooring materials.

d. Attendant will estimate tonnage based on cu. yds. for demolition debris if load has not been weighed by user.

10. BURNABLE NON-TREATED WOOD & BRUSH:

a. Four (4) or more cu. yds. per load-$50.00.

b. Brush must be four-inch diameter or less.

C. The Selectmen upon recommendation of the recycling committee may revise the list of recyclable waste appearing in Section 3 (B) from time to time by adding and/or deleting categories and sub-categories of wastes. A decision to revise the list shall be preceded by a public hearing. Notice of the hearing shall be given seven days in advance by posting an attested copy of the public hearing notice. A copy of the proposed revisions or reasonable summary shall be included with the notice.

Deletion of any item from the list shall result from a factual determination by the selectmen that there is no longer any reasonable market for a particular recyclable item, that determination shall be based on (1) the lack of any person or business interested in purchasing that recyclable item or (2) a cost/benefit analysis showing that it is costing the town more to pay for the recycling of that item than the town is saving by keeping that item out of the town’s waste disposal stream.

Additions to the list shall be based on a finding by the selectmen that there is a reasonable market for a recyclable item. That determination shall be based on a finding that there exists a person or business interested in purchasing the item from the town and that it will not cost the town more to recycle the item that it will derive in savings by keeping the item out of the town’s waste stream.

D. The selectmen may also revise the fee schedule in Section 3 (B) from time to time to reflect the town’s actual cost of handling and recycling a particular recyclable item. Revisions to the fee schedule must be accomplished in the same manner as revisions to the list of recyclable matter, as described in Subsection (C) above.

SECTION 4. ENFORCEMENT/PENALTIES:

A. This ordinance shall be enforced by the Board of Selectmen.

B. Each failure to separate or to dispose of waste as provided in this ordinance and each failure to comply with any other provision of this ordinance is deemed to be a separate violation.
C. Each violation of this ordinance shall be recorded by the attendant against the violator in a separate account maintained by the town. A violation will be erased by the public works director from the violator’s record when the violation becomes one year old and thereafter the erased violation will not be used in determining appropriate procedure under this section.

D. Any person violating this ordinance whose violation record is zero (0) or one (1) shall be given a written warning by the public works director stating the nature of the violation and the date on which it occurred. Any person violating this ordinance whose violation record is two (2) or more may be brought to court pursuant to Maine Rules of Civil Procedure.

E. The selectmen and the violator may agree to waiver of court proceedings. In the event of such agreement, the waiver penalty for each violation shall be as follows:

1. Second violation-verbal warning
2. Third violation-$5.00
3. Fourth violation-$10.00
4. Fifth violation-$50.00
5. Sixth violation-$100.00

Payment of the penalty under this procedure by the violator shall be deemed an admission of the violation and a waiver of any court proceeding. The violator shall pay the appropriate amount to the Town of Newport pursuant to this Subsection.

F. Any person prosecuted for violation of any provision of this ordinance after two violations pursuant to Subsection (D) shall be subject to a civil penalty up to $2,500.00 for each violation. Such a person shall be ordered to correct or abate the violation.

If economic benefit resulting from the violation exceeds the applicable penalty, the maximum penalty may be increased for each day of the violation. The actual civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit shall, without limitation, include the cost avoided or enhanced value accrued to the time of violation by the violator for not complying with the applicable legal requirements. In setting penalties, the court shall consider, but is not limited to the following:

1. Prior violation by the same person;
2. The degree of the damage that cannot be abated or corrected;
3. The extent which the violation continued following a notice to stop.
4. The benefit derived by a person as a result of the violation;
5. The importance of setting a civil penalty substantial enough to deter future violations; and whether penalties have been imposed by any other governmental agency for the same incidence.
Payment of the penalty assessed shall be in cash, bank check, money order, or by certified clerk drawn on a recognized financial institution made payable to the Town of Newport in an amount full extent of the penalty.

SECTION 5. AMENDMENTS:

This ordinance shall remain in effect until amended or repealed by a majority of the town at a town meeting.

SECTION 6. SEVERABILITY:

Should any section of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

SECTION 7. CONFLICT WITH OTHER ORDINANCES:

This ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this ordinance imposes a greater restriction upon the use of Newport’s Transfer Station, Demolition Debris Dump or any other facility or equipment used by the town or its agent to haul or handle its solid waste, the provisions of this ordinance shall prevail.

Approved at Town Meeting 9/18/1991

"Attest, a true copy of an ordinance entitled Town of Newport Recycling Ordinance, as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 18th day of September 1991."

Date: 08/31/2012

Signature: Paula A. Scott, CMC
Municipal Clerk
Shoreland Zoning Ordinance
for the
Town of Newport, Maine

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird, and other wildlife habitat; to protect buildings and land from flooding and accelerated erosion; to protect archaeological and historic resources; freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Section 3. Applicability

This Ordinance applies to all land areas within 1000 feet horizontal distance of the normal high-water line of Nokomis Pond; within 250 feet, horizontal distance, of the normal high-water line of any great pond or river within 250 feet, horizontal distance, of the upland edge of a freshwater wetland rated moderate to high value by the Maine Department of Inland Fisheries and Wildlife (IFW); within 75 feet, horizontal distance, of the upland edge of a freshwater wetland that has not been rated by IFW as moderate to high value; and within 75 feet, horizontal distance, of the normal high-water line of a stream, including outlet streams from freshwater wetlands. This Ordinance also applies to any structure built on, over or abutting a dock, wharf, or pier, or other structure extending below the normal high-water line of a body or within a wetland.

Section 4. Effective Date

A. This Ordinance, which was adopted by the municipal legislative body on March 13, 2010 and shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance. Attested and signed by the Municipal Clerk, shall be forwarded to Commissions of Environmental Protection for approval. If the Commissioner of Environmental Protection fails to act on this Ordinance within forty-five (45) days of this/her receipt of this Ordinance is hall be deemed approved. Upon approval of this Ordinance, the Shoreland zoning
ordinance previously adopted on is hereby repealed. Any application for a permit submitted to the municipality within forty-five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-B(5), the following provisions of this ordinance are repealed:

* Section 14- Table of Land Uses # 3 Forest management activities and # 4 Timber Harvesting
* Section 15 – Land Use Standard 15.(O) Timber Harvesting
* Section 17 Definitions, the definitions of “forest management activities”, “residual basal area”, “skid trail, and “slash”.

Section 5. Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall accessible to any member of the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

Section 6. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decisions shall not invalidate any other section or provision of the Ordinance.

Section 7. Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

Section 8. Amendments

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails act on any amendment within forty-five (45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the
municipality within forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

1. Initiation of Amendment-an amendment to is ordinance may be initialed by:
   a. The planning board provided a majority of the board has so voted;
   b. Request of the Selectmen to the planning board; or
   c. Written petition of 10% of the registered voters of the town.

2. Adoption – All proposed amendments shall be referred to the Planning Board for their recommendation. The planning board may hold a public hearing on the proposed amendment. Within 30 days of receiving a proposed amendment, the Planning Board shall make their recommendation known to the Selectmen and the Town. After receiving the recommendation of the Planning board, the amendment may be adopted or rejected by majority vote of the Town at Town Meeting.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map (s) which is (are) made a part of this Ordinance.

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. General Development
5. Stream Protection
6. Nokomis Pond Water District

B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less that 1” inch = 2000 feet. District boundaries shall be clearly delineated and a legend indication the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

D. Changes to the Official Shoreland Zoning Map
If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**Section 10. Interpretation of District Boundaries**

Unless otherwise set forth on the Official Shoreland Zoning Map, District boundary lines are property lines, the centerlines of streets, roads, and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be final authority as to location.

**Section 11. Land Use requirements**

Except as herein after specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

**Section 12. Non-conformance**

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of the Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in non-conforming use or structure as federal, state, or local building and safety codes may require.

Note: See Section 17 for the definitions of non-conforming conditions, non-conforming lots, non-conforming structures, non-conforming uses.

C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with Section 12(C)(1)(a) and (b) below.

Further Limitations:

a. After January 1, 1989 if any portion of a structure is less than the required setback for the normal high-water line of a water body, tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacements structure may not be expanded if the original structure existing on January 1, 1989, had been expanded by 30% in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure the structure and new foundation must be placed such the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2), Relocation, below; if the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

2. Relocation: A non-conforming structure may be relocated within the boundary of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State Law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.
In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement: any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.
Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream or wetland or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non conforming residential uses may, after obtaining a permit for the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming uses except that the Planning Board may, for good cause shown by the applicant, grant up to one year extension to the time period. This provision shall not apply to the resumption of a use or a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Changes of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact
on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed on Section 12 (C)(4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except setback, lot area, lot width and shore frontage can be met. Variances relation to setback or other requirements not involving lot area, lot width and shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or parts of the lots do not meet the dimensional requirements of this Ordinance, and if a principal or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots – Vacant or Partially Built: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structures the lots shall be combined to the extent necessary to meet the dimensional requirements.

Section 13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial or General Development Districts need not be included within the Resource Protection District.
1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph “wetlands associated with great ponds and rivers shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or rivers during the period of normal water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

2. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the Flood of Record, or in the absence of these, by soil type identified as recent floodplain soils.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater, defined, and which are not surficially connected to a water body during the period of normal high water. 
   **NOTE:** These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

5. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement.

B. Limited Residential District

The Limited Residential District includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in Limited Commercial District or the General Development District.

C. Limit Commercial District

The limited Commercial District includes areas of mixed, light commercial and residential used, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of
residential and low intensity business and commercial uses. Industrial uses are prohibited.

Limited Commercial District, commencing at the northwesterly corner of Lot 29, Map 17 of the Town of Newport Tax maps (1994) and extending northerly and northwesterly along the shore of Sebasticook Lake to the easterly bound of Lot 19, Map 20 of the Town of Newport Tax maps (1994) (This can only be created by a vote at Town Meeting).

D. The General Development District
1. Existing areas of two or more contiguous acres devoted to retail trade, service activities, or other commercial activities and industrial activities.

2. Areas otherwise discernible as having patterns of intensive commercial, industrial and recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated a General Development District based solely on residential use.

In areas adjacent to great ponds and adjacent to rivers flowing to great ponds the designation of an area as General Development District shall be based upon uses existing at the time of the adoption of this Ordinance. There shall be no newly established General Development Districts adjacent to great ponds and adjacent to rivers which flow to great ponds.

3. General Development District, commencing at the northwesterly corner of Lot 29, Map 17 of the Town of Newport Tax Maps (1994) and extending southeasterly along the shore of Sebasticook Lake to the North Street Dam to Main Street Dam only. (1994) and further extending southerly along the western shore of the East Branch of Sebasticook River to Interstate 95. (1994)

E. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within 1,000 feet horizontal distance, of the normal high-water line of Nokomis Pond; within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, within two-hundred and fifty (250) feet horizontal distance of the upland edge of a wetland rated moderate or high value; or within seventy-five (75) feet, horizontal distance of the upland edge of a wetland not rated moderate or high value. Where a stream and its associated shoreland zone are located within the shoreland zone of the above water bodies or wetlands that land area shall be regulated under terms of the shoreland district associated with that water body or wetland.
F. Nokomis Pond Water District
This as overlapping protection zone, much like the Shoreland Zone, intended to protect the Nokomis Pond water reservoir. This zone extends 1,000 feet from the normal high-water line of Nokomis Pond. Any development within this area, besides falling under appropriate review procedures by the Town of Newport, must be reviewed by the Newport Water District. This will help to ensure the continued protection of the Town’s water supply from possible ground water contamination. **All development in this zone must be setback 150 feet from the normal high water line of Nokomis Pond**

Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designated for a particular site shall be determined from the Official Shoreland Zoning Map.

**Yes** – Allowed (no permit required by the use must comply with all applicable land use standards.)

**No** – Prohibited

**PB** – Requires permit issued by the Planning Board

**CEO** – Requires permit issued by the Code Enforcement Officer

**LPI** – Requires permit issued by Local Plumbing Inspector

Abbreviations:

**RP** – Resource Protection
**LR** – Limited Residential
**LC** – Limited Commercial
**GD** – General Development
**SP** – Stream Protection
**NP** – Nokomis Pond Water District
### SECTION 15 - TABLE 1. LAND USES IN THE SHORELAND ZONE

<table>
<thead>
<tr>
<th>TABLE OF LAND USES</th>
<th>SP</th>
<th>RP</th>
<th>LR</th>
<th>LC</th>
<th>GD</th>
<th>NPWD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>3. Forest management activities except for timber harvesting</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>yes</td>
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<tr>
<td>4. Timber harvesting</td>
<td>Yes</td>
<td>CEO1</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>CEO1</td>
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<tr>
<td>5. Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO</td>
<td>CEO1</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
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<td>6. Fire prevention activities</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
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<td>7. Wildlife management practices</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
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<td>8. Soil and Water conservation practices</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
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<tr>
<td>9. Mineral exploration</td>
<td>No</td>
<td>no</td>
<td>No</td>
<td>No</td>
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<td>No</td>
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<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>No</td>
<td>no</td>
<td>No</td>
<td>No</td>
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<td>11. Surveying and resource analysis</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
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<td>12. Emergency Operations</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
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<td>13. Agriculture</td>
<td>Yes</td>
<td>PB</td>
<td>Yes</td>
<td>Yes</td>
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<td>14. Aquaculture</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>Yes</td>
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<td>15. Principal structures and uses</td>
<td>PB4</td>
<td>No 9</td>
<td>CEO</td>
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<td>PB</td>
<td>CEO</td>
</tr>
<tr>
<td>A. One and two family residential including driveways</td>
<td>PB4</td>
<td>No 9</td>
<td>CEO</td>
<td>PB</td>
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<td>B. Multi-unit residential</td>
<td>No</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
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<td>C. Commercial</td>
<td>No8</td>
<td>No8</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
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<td>D. Industrial</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>PB</td>
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<td>E. Governmental and Institutional</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
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<td>16. Structures accessory to allowed uses</td>
<td>PB4</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
<td>PB</td>
<td>PB</td>
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<tr>
<td>17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td>a. Temporary</td>
<td>PB</td>
<td>PB</td>
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<td>b. Permanent</td>
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<td>PB</td>
<td>PB</td>
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<td>18. Conversions of seasonal residences to year-round residences</td>
<td>LPI</td>
<td>No</td>
<td>LPI/CEO</td>
<td>LPI/CEO</td>
<td>LPI/CEO</td>
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<td>19. Home occupations</td>
<td>PB</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
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<td>No</td>
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<tr>
<td>20. Private sewage disposal systems for allowed uses</td>
<td>LPI</td>
<td>No</td>
<td>LPI</td>
<td>No</td>
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<td>21. Essential services</td>
<td>PB5</td>
<td>PB5</td>
<td>PB</td>
<td>PB</td>
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<td>PB</td>
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<td>22. Service drops, as defined, to allowed uses</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
<td>Yes</td>
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<td></td>
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<td>23. Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<td>24. Individual, private campsites</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>PB</td>
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<tr>
<td>25. Campgrounds</td>
<td>No</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
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<td>26. Road construction</td>
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<tr>
<td>27. Parking facilities</td>
<td>No</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
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<td>No</td>
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<tr>
<td>28. Marinas</td>
<td>PB</td>
<td>No</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>No</td>
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<tr>
<td>29. Filling and earth moving of &lt;10 cubic yards</td>
<td>CEO</td>
<td>CEO</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>CEO</td>
</tr>
<tr>
<td>30. Filling and earth moving of &gt;10 cubic yards</td>
<td>PB</td>
<td>PB</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>PB</td>
</tr>
<tr>
<td>31. Signs</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>yes</td>
<td>Yes</td>
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<tr>
<td>32. Uses similar to allowed uses</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
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<tr>
<td>33. Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
<td>CEO</td>
</tr>
<tr>
<td>34. Uses similar to uses requiring a PB permit</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
<td>PB</td>
</tr>
<tr>
<td>35. Sand / Salt Storage</td>
<td>NO</td>
<td>NO</td>
<td>NO</td>
<td>CEO</td>
<td>CEO</td>
<td>NO</td>
</tr>
</tbody>
</table>

Notes: The following notes are applicable to the Land use table listed above.
1. In RP not allowed within 75 feet of the normal high-water line of great ponds, except to remove safety hazards. In NWPD not allowed within 150 feet of the normal high-water line of great ponds, except to remove safety hazards. Timber Harvesting in the NPWD must be done under the supervision of a Licensed Maine Forester.
2. Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
3. In RP not permitted in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. See further restrictions in Section 15(L)(2)
6. Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
7. Except as provided for in Section 15(H)(3)
8. Except for commercial uses otherwise listed in Table, such as campgrounds and marinas, that are allowed in the respective districts.
9. Single Family residential structures may be allowed by special exception only according to provisions of Section 16-E

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to Title 38 M.R.S.A., Section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
B. Draining or otherwise dewatering;
C. Filling, including adding sand or other material to a sand dune; or
D. Any construction or alteration of any permanent structure

Section 15. Land Use Standards.
All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1. Minimum Lot Areas

<table>
<thead>
<tr>
<th>Activity</th>
<th>Minimum Lot Areas (Sq. ft.)</th>
<th>Minimum Shore Frontage (lin. Ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential per dwelling unit</td>
<td>40,000</td>
<td>200</td>
</tr>
<tr>
<td>Governmental, Institutional, Commercial or Industrial per principal structure</td>
<td>60,000</td>
<td>300</td>
</tr>
<tr>
<td>Public and Private Recreation Facilities</td>
<td>40,000</td>
<td>200</td>
</tr>
</tbody>
</table>

2. Land below the normal high-water line of a body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculation minimum lot area.

3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds and rivers that flow to great ponds and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. Except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated...
objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

a. The water body, tributary stream or wetland setback provision shall neither apply to structures which require direct access to the water body, tributary stream or wetland as an operational necessity, such as piers, docks, and retaining walls, no to other functionally water-dependent uses.

b. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, Nokomis Pond Water District shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

3. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by the soil types as recent floodplain soils.

4. The total area of all structures, parking lots and other non-vegetation surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to rivers which do not flow to great ponds, where lot coverage shall not exceed (70) percent.

5. Not withstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structures is limited to a maximum of four (4) feet in width; that the structured does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resource Protection Act. Title 38, Section
480-C): and that the applicant demonstrates that no reasonable access alternative exists on the property. 1994

C. Piers, Docks, Wharfs, Bridges, and other Structures and Uses Extending Over or below the Normal High-Water Line of a Water Body or Within a Wetland

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non commercial uses.

5. No new structure shall be built on, over or abutting a pier, wharf, dock, or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to water body or wetland as an operational necessity.

6. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

7. No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

8. Except in the General Development District, structures built on, over, or abutting a pier, wharf, dock, or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed (20) feet in height above the pier, wharf, dock, or other structure.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters

D. Campgrounds

Campground shall conform to the minimum requirements imposed under State licensing procedures and the following:
1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including road and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent, or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet horizontal distance from the normal high-water line of a great pond or river flowing to a great pond and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. No Attached Permanent Structures

4. No Recreation Vehicles will be allowed on any site for more than 180 days out of a year.

E. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond or river flowing to a great pond and seventy-five (75) feet from normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except for a canopy shall be attached to the recreational vehicle.

4. The clearing of vegetation for the sitting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
6. When a recreational vehicle, tent, or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal in compliance with the State of Maine Subsurface Wastewater Disposal unless served by public sewage facilities.

7. Accessory structures shall be permitted in accordance to Section 15 (B)(1)

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the Shoreland Zone adjacent to great ponds, and rivers and streams which flow to great ponds:

a. Auto washing facilities.
b. Auto or other vehicle service and/or repair operations, including body shops.
c. Chemical and bacteriological laboratories.
d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amount normally associated with individual households or farms.
e. Commercial painting, wood preserving and furniture stripping.
f. Dry cleaning establishments
g. Electronic circuit assembly
h. Laundromats, unless connected to a sanitary sewer.
i. Metal planing, finishing, or polishing.
j. Petroleum or petroleum storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
k. Photographic processing.
l. Printing.

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirements for parking areas serving public boat launching facilities, in Districts other than the General Development, may be reduced to not less than fifty (50) feet horizontal distance from the normal high-water line or upland edge of a wetland if the Planning Board finds no other reasonable alternative exists.

2. Parking areas shall be adequately size for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body or tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size proposed parking facilities, the following shall apply:

   a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

   b. Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways

The following standards shall apply to the construction of road and/or driveways and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river that flows to a great pond and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. The setback to the Nokomis Pond will be increased to 500 feet. No variance will be allowed.

   On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback for a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection District and Nokomis Pond Water District except to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.

6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:

   a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along road and driveways at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>
b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with road shall be maintained on a regular basis to assure effective functioning.

I. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Nokomis Pond Water, Limited Residential and Limited Commercial Districts:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

3. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that such sign shall exceed two (2) square feet in area.

4. Signs relating to public safety shall be permitted without restriction.

5. No sign shall extend higher than twenty (20) feet above the ground.

6. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water run-off from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales,
terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

3. Drainage Improvements

   a. Removal of Spring and Surface Water – The applicant may be required by the Planning Board to carry away by pipe or open ditch any spring, surface or storm water that may exist either previous to or as a result of the development. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

   b. Drainage Structures to Accommodate Potential Development Upstream a culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, where inside or outside the development. The facility shall be designed based on anticipated run-off from a “ten year” storm under conditions of total potential development permitted in the watershed by the Zoning Ordinance.

   c. Responsibility for Down Stream Drainage – If requested by the Planning Board, the applicant engineer shall study the effect of the proposed development on the existing down-stream drainage facilities outside the areas of the subdivision. Where it is anticipated that the additional run-off incident to the development will overload an existing down-stream drainage facility during a storm with recurrence interval of five years, the Planning Board shall notify the Selectmen of such potential condition. In such case the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

   d. The Planning Board shall require that easements for drainage be turned over to the town.

   e. Phosphorous control – The subdivider shall incorporate whatever storm water runoff controls or treatment measures as necessary to prevent additional phosphorous loading to Sebasticook Lake.

K. Septic Waste Disposal

A. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

   a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet,
horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance. **Within the Nokomis Pond Water District the setback will be 150 feet from Nokomis Pond.**

L. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services is not permitted in a Resource Protection, Nokomis Pond or Stream Protection Districts, except to provide services to a permitted use within said district, or except where the applicant demonstrated that not reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

M. Mineral Exploration and Extraction

There will not be any exploration and extraction of minerals anywhere in the shoreland zone or the resource protection areas.

N. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

2. Manure shall not be stored or stockpiled within the shoreland zone. Existing storage or stockpiles within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

3. Agricultural activities involving tillage of soil within the shoreland zone are allowed provided that the following is complied with

   NOTE: Assistance in preparing a conservation plan may be available through the local Soil and Water Conservation District Office.
a. There shall be no new tiling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

b. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4. Newly established livestock grazing areas shall not be permitted within the shoreland zone. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting shall conform with the following provisions and the State Forestry Guidelines and Practice

1. In a Resource Protection abutting a great pond, timber harvesting shall be limited to the following

   a. Within the strip of land extending one hundred (100) feet inland from the normal high-water line of a great pond there shall be no timber harvesting, except to remove safety hazards.

   b. Except in areas as described in Section 15 (O)(1)(a) above, timber harvesting is permitted in accordance with Section 15 (O)(2) below, except that in no case shall the average basal area of trees over 4 inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

2. Except as provided in Section 15 (O)(1) above, timber harvesting shall conform with the following provisions:

   a. Selective cutting of no more than forty (40) inches or more in diameter assured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

      i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond or river flowing to a great pond and within seventy (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained. **This will be increased to 150 feet in the Nokomis Pond Water District.**
ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond or river flowing to a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary stream or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet, there shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area. This will be increased to 150 feet in the Nokomis Pond Water District.

b. No accumulation of slash shall be left within one hundred (100) feet of the normal high-water line of a great pond or river, nor within seventy-five feet of the normal high-water line of a stream. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body, or tributary stream shall be removed.

c. Timber harvesting equipment shall not use stream channels as travel routes except when:

i. Surface waters are frozen; and

ii. The activity will not result in any ground disturbance.

d. All water crossings shall require a bridge or culvert, except in areas with low banks and channel beds that are composed of gravel, rock or similar hard surface with would not be eroded or otherwise damaged.

e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

f. Except for water crossings, skid trails and other sites where the operations of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that and unscarified strip of vegetation of at least seventy-five (75) feet horizontal distance in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet horizontal.
distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided however, than to portion of such exposed mineral soil on the back face shall be closer than twenty five (25) feet horizontal distance from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or removal of Vegetation for Activities Other Than Timber Harvesting

1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no clearing or removal of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere, in any Resource Protection District or Nokomis Pond Water District the clearing or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section 15 (P)(1), above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line of a great pond or a river and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

   a. There shall be no cleared opening greater than 250 square feet in the forest canopy, or other existing woody vegetation if a forested canopy is not present as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and / or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

   b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposed of this section a “well-distributed stand of trees ” adjacent to a great pond or a river or stream flowing to a great pond shall be defined as maintaining a rating scored of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 &lt; 4 in. or less</td>
<td>1</td>
</tr>
<tr>
<td>4 &lt; 12 in. or less</td>
<td>2</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>4</td>
</tr>
</tbody>
</table>
Adjacent to other water bodies, tributary streams, and wetlands, a well-distributed stand of trees is defined as maintaining a minimum rating score of 8 per 25-foot by 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter and three trees over 12 inches in diameter, the rating score is:

\[(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}\]

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points \((21-12 = 9)\) may be removed from the plot provided that no cleared openings are created.

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (3) saplings less than two (2) inches in diameter at four and one half \((4 \frac{1}{2})\) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above the ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

e. In order in maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native trees species unless existing new tree growth is present.

The provisions contained in Section 15 (P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum areas necessary.

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland
edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purpose of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot areas within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields and other cleared openings that have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15 (P).

Q. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil condition and which required a permit shall required a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

   a. Mulching and revegetation of disturbed soil.

   b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

   c. Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

   a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

   b. Anchoring the mulch with netting, peg and twine or other suitable methods may be required to maintain the mulch cover.

   c. Additional measured shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.

R. 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, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriated. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other
activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.

T. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comment received from the Commission prior to rendering a decision on the application.

Section 16. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer

   A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. Board of Appeals

   A Board of Appeals shall be created in accordance with the provisions of M.R.S.A. Title 30-A Section 2691.

3. Planning Board

   A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application
1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriated, shall note upon each application the dated and time of its receipt.

4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a completed application, or if the application is incomplete, that specified additional materials is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriated, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available dated on the Planning Board’s agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use;
1. Will maintain safe and healthy conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface water;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of Section 15, Land use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structured would be located in an unapproved subdivision or would violate any other local ordinance, regulation or statue administrated by the municipality.

E. SINGLE FAMILY DWELLING - RESOURCE PROTECTION DISTRICT

In addition to the criteria in Section D above, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

A. There is no location on the property, other than the location within the Resource Protection District, where the structure can be built.
B. The lot on which the structure is proposed is undeveloped and was established and recorded in the Penobscot County Registry of Deeds before the adoption of the Resource Protection District.
C. The proposed location of all buildings, sewage disposal systems and other improvements are:
   1) Located on natural ground slopes of less than 20%; and
   2) Located outside the floodway of the 100-year floodplain along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is
otherwise in compliance with Article 7. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain,

D. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

E. All structures, except functionally water-dependent structures, are set back from the normal high water line or upland edge of a wetland to the greatest practical extent, but not less than 75 feet. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value or high-value wetlands.

F. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriated municipal officials. Following installation of service, the company or district shall forward written authorization to the municipal officials, indication that installation has been completed.

H. Appeals

1. Powers and Duties of the Board of Appeals
The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance

2. Variance Appeals

Variances may be granted only under the following conditions:

a. Variances may be granted only from dimensional requirements including but no limited to, lot width, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

(1) The proposes structure or use would meet the provisions of Section 15 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 undue hardship.

The Term “undue hardship” shall mean:

(i) That the land in question cannot yield a reasonable return unless a variance is granted:
(ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

(iii) That the granting of a variance will not alter the essential character of the locality; and

(iv) That the hardship is not the result of action taken by the applicant or a prior owner.

1. Accessibility- Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
3. Appeal Procedure

a. Making an Appeal

(1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16 (G)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

   (i) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

   (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

1. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

2. The person filing the appeal shall have the burden of proof.

3. The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

4. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or
hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board’s decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

4. Appeal to Superior Court

Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

5. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

1. Nuisances

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

2. Code Enforcement Officer

a. 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 or she shall notify in writing the person responsible for such violation, indication the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
b. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variance granted or denied, revocation actions, revocation of permits, appeals court actions, violations investigated, violations found, and fees collected. On an biennial basis, a summary of the record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunction of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines

Any person, including but not limited to a landowner, a landowner’s agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to $5,000 (Title 38, M.R.S.A. section 4452)
Section 17. Definitions

ACCESSORY STRUCTURE OR USE - a use or structure on the same lot which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGGRIEVED PARTY - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

AGRICULTURE - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops, dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

AQUACULTURE - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

BASAL AREA - the area of cross-section of a tree at 4 ½ feet above ground level and inclusive of bark.

BASEMENT - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

BOAT LAUNCHING FACILITY - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

CAMPGROUND - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles or other shelters.

CANOPY - the more or less continuous cover formed by tree crowns in a wooded area.

COMMERCIAL USE - the use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.
**DBH** - the diameter of a standing tree measured 4.5 feet from ground level.

**DEVELOPMENT** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**DIMENSIONAL REQUIREMENTS** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**DISABILITY** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of a mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**DRIVEWAY** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling.

**EMERGENCY OPERATIONS** - 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, property and livestock from the threat of destruction or injury.

**ESSENTIAL SERVICES** - gas, electrical or communication facilities (not otherwise defined in this section); steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**EXPANSION OF A STRUCTURE** - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

**EXPANSION OF USE** - the addition of one or more months to a use’s operating season, additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**FAMILY** - one or more persons occupying a premises and living as a single housekeeping unit.
**FLOODWAY** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**FLOOR AREA** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**FOREST MANAGEMENT ACTIVITIES** - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**FORESTED WETLAND** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall *(approximately twenty (20) feet)* or taller.

**FOUNDATION** - the supporting substructure of a building or other structure including, but not limited to, basements, slabs, sills, posts or frost walls, or other base consisting of concrete, block, brick or similar material.

**FRESHWATER WETLAND** - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are-

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for duration to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**FUNCTIONALLY WATER-DEPENDENT USES** - those uses that require for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.
**GREAT POND** - any inland body of water, which in a natural state, has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased, which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**GROUND COVER**- small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**HEIGHT OF A STRUCTURE** - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

**HOME OCCUPATION** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; **and** 2) shall not employ no more than two (2) persons other than family members residing in the home.

**INCREASE IN NONCONFORMITY OF A STRUCTURE** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally from any portion of the existing structure to fill in the space left by an L or U shaped structure, provided that the expansion extends no closer to the water body, tributary stream or wetland than the closest portion of the existing structure from that water body, tributary stream or wetland. Similarly, there is no increase in nonconformity with the height requirement if the expansion increases the height of the structure no further than the highest point of the existing nonconforming structure.

**INDIVIDUAL PRIVATE CAMPSITE** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include, but not be limited to gravel pad, parking area, fire place, or tent platform.

**INDUSTRIAL** - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.
**INSTITUTIONAL**- a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**LOT AREA** - the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**MARINA** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**MARKET VALUE** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**MINERAL EXPLORATION** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**MINERAL EXTRACTION** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**MINIMUM LOT WIDTH** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**MULTI-UNIT RESIDENTIAL** - a residential structure containing three (3) or more residential dwelling units.

**NATIVE**- indigenous to the local forests

**NOKOMIS POND WATER DISTRICT**- Nokomis Pond serves as Newport’s Water Supply

**NON-CONFORMING CONDITION**- non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.
NON-CONFORMING LOT - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

NON-CONFORMING STRUCTURE - structure which does not meet one or more of the following dimensional requirements- setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NON-CONFORMING USE - use of buildings, structures, premises, land, or parts thereof, which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NORMAL HIGH-WATER LINE - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

PERSON - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest or other legal entity.

PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BELOW THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND -

TEMPORARY - structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

PERMANENT - structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

PRINCIPAL STRUCTURE - a building other than one which is wholly or incidental or accessory to another use on the same premises.

PRINCIPAL USE - A use other than one which is wholly incidental or accessory to another use on the same premises.

PUBLIC FACILITY - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.
RECENT FLOODPLAIN SOILS - the following soil series as described and identified by the National Cooperative Soil Survey:

- Alluvial
- Fryeburg
- Lovewel
- Podunk
- Suncook
- Cornish
- Hadley
- Medomak
- Rumney
- Sunday
- Charles
- Limerick
- Ondawa
- Saco
- Winooski

RECREATIONAL FACILITY - a place designed and equipped for conducting sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

RECREATIONAL VEHICLE - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

REPLACEMENT SYSTEM - a system intended to replace-
1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. Any existing overboard wastewater discharge.

RESIDENTIAL DWELLING UNIT - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

RESIDUAL BASAL AREA - the average of the basal area of trees remaining on a harvested site.

RIPRAP - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

RIVER - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

ROAD - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.
SERVICE DROP - any utility line extension which does not cross or run beneath any portion of a water body provided that-

1. In the case of electric service  
   a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and  
   b. The total length of the extension is less than one thousand (1,000) feet.

2. In the case of telephone service  
   a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or  
   b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

SETBACK - the nearest horizontal distance from the normal high-water line of a water body, tributary stream or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated objects or area.

SHORE FRONTAGE - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

SHORELAND ZONE – This Ordinance applies to all land areas with 1,000 feet horizontal distance, of the normal high-water line of Nokomis Pond; within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within two hundred and fifty (250) feet of the upland edge of a freshwater wetland rated high to moderate value by the Maine Department of Fisheries and Wildlife (IFW); or within 75 feet of a freshwater wetland that has not been rated by IFW as having moderate to high value; and within seventy-five (75) feet of the normal high-water line of a stream, including outlet streams from freshwater wetlands.

SHORELINE- the normal high-water line, or upland edge of a freshwater wetland.

SKID TRIAL- a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

SLASH- the residue, e.g., treetops and branches, left on the ground after a timber harvest.

STREAM - A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 Minute Series Topographic Map, or if not available, a 15-Minute Series Topographic Map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. Stream shall include outlet stream, which is any perennial or intermittent stream as depicted on the most recent edition of a United States Geological Survey 7.5 Minute Series Topographic Map, or if not available, a 15-Minute Series Topographic Map, that flows from a freshwater wetland.
STRUCTURE - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring ad other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, *patios* and satellite dishes.

SUBSTANTIAL START - Completion of thirty percent (30%) of a permitted structure or use measured as a percentage of estimated total cost.

SUBSURFACE SEWAGE DISPOSAL SYSTEM - any system designed to dispose if waste or waste water on or beneath the surface of the earth; includes, but is not limited to septic tank, disposal fields, grandfathered cesspool, holding tanks, pretreatment filter, piping, or an other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under Title 38 MRSA, Section 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

SUSTAINED SLOPE - A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

TIMBER HARVESTING- the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P) Clearing or removal of Vegetation Activities Other Than Timber Harvesting.

TRIBUTARY STREAM - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

UPLAND EDGE - The boundary between upland and wetland. For the purpose of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support growth of wetland vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.
VEGETATION - All live trees, shrubs and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at 4 1/2 above ground level.

VOLUME OF A STRUCTURE - The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WATER BODY - Any great pond, river, or stream.

WATER CROSSING - Any project extending from one bank to the opposite bank of a river, tributary stream, wetland or stream, whether under, through, or over the water or wetlands. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossing for timber harvesting equipment and related activities.

WETLAND- a freshwater wetland

WOODY VEGETATION- live trees or woody, non-herbaceous shrubs.

Accepted by vote of Town meeting March 12th, 2011
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.

(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 to 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 that 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

LAN D USE ORD INANCE OF THE TOWN OF NEWPORT, MAINE
Title: An Ordinance Regulating Storage and Land Application of Sludge and Other Materials

Article I Authority, Applicability and Availability

1.1 This Ordinance is adopted pursuant to MRSA Title 30-A section 3001 et seq.

1.2 The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Newport.

1.3 A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during Town office hours. Copies shall be made available to the public at a reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town office.

Article 2 Purpose

2.1 The purpose of this Ordinance is to protect the health and safety of the residents of the Town of Newport; to enhance and maintain the quality of the environment; and to conserve natural resources through regulation of storage and land application of septage, wastewater treatment plant sludge and other residuals. The Town of Newport desires to work in partnership with the Department of Environmental Protection by establishing in this ordinance a local procedure for the following activities: public hearing process to review all land application sites, an inspection process to review all land spreading activities, notification process to keep the Town informed of all land spreading activities, and identification of local sensitive environmental areas.

This Ordinance also recognizes the agricultural value that sludge and other residuals can provide the Town's farm and forest land. The opportunity to use sludge, residuals, and compost on agricultural land enhances the ability of local farmers to improve the productivity of their land and further promotes the Town's interest in preserving the agricultural heritage of the community. Furthermore, the application of sludge and residuals and composting activities represent a cost effective management strategy for a certain portion of municipal and special solid waste. The application of sludge and residuals on agricultural lands shall be performed in a manner that also recognizes the other land use activities that share the Town's rural landscape,
Article 3 Validity, Severability, and Conflict with Other Ordinances

3.1 Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section of this Ordinance.

3.2 Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, Code, or Statute, the more restrictive requirements shall apply.

Article 4 Appeals

4.1 An aggrieved party may appeal any final action taken by the Town of Newport Planning Board or Code Enforcement Officer to the Board of Appeals pursuant to Section VI-L of the Town of Newport Land Use Ordinance. An appeal from a final decision of the Planning Board or Code Enforcement Officer must be filed with the Board of Appeals within 30 days of the issuance of the final decision letter.

Article 5 Amendments

5.1 This Ordinance may be amended by a majority vote of the Town. Amendments may be initiated by a request of the Planning Board, Selectmen, or by petition bearing the signatures of registered voters equal to or in excess of 10% of the votes cast in the last gubernatorial election in the Town.

Article 6 Continuance of Existing Uses

6.1 Any land spreading of sludge and residuals, storage of sludge and residuals, land spreading and storage of septic sludge, and composting operations that are legally existing and operating with a permit from the Department of Environmental Protection within the Town of Newport prior to the adoption of this Ordinance may continue, but shall be subject to the following requirements:

6.1.1 The expansion or enlargement of any existing activity shall require a permit and conform to the provisions of this Ordinance for the new, expanded area.

6.1.2 The applicant shall obtain an annual renewal permit within 12 months of this Ordinance and shall conform to the requirements established for permit renewal.
Article 7 Effective Date

7.1 Having been adopted by the voters on March 11, 2000 the effective date of this Ordinance shall be

Article 8 Definitions

8.1 Applicant

The term applicant refers to the owner and/or operator of the wastewater treatment plant or generator of the sludge or residual, or any person who alone or in conjunction with others owns real property upon which is located a land spreading site, compost operation or storage facility.

8.2 Compost

The humus derived from the biological decomposition and stabilization of organic matter under aerobic conditions and high temperature.

8.3 Composting Operation

The term refers to any activity designed for the biological decomposition and stabilization of organic matter under aerobic conditions of high temperature, resulting in a humus-like product that can be used as a soil amendment. Composting activities that are exempt from obtaining a permit from the Department of Environmental Protection or require a permit by rule standards are exempt from this definition.

8.4 Expansion and/or Enlargement

The expansion and/or enlargement of an activity shall mean the increase in the size of the operation by volume or area.

8.5 Minor Revision

A minor revision shall mean any change in the activity that does not include an expansion and/or enlargement.

8.6 Residuals

Those materials, included but not limited to, food processing wastes, municipal wastewater
and sludge, vegetable and fish processing residuals, generated from municipal commercial
or industrial facilities that are, suitable for controlled land application and results in
vegetative assimilation, attenuation of the components in the material or improved soil
conditions,

8.7 Septage
Waste, refuse, effluent, sludge, and other materials from septic tanks, cesspools, or other
similar facilities.

8.8 Sludge
The semi-solid or liquid residual generated from a municipal commercial or an industrial
wastewater treatment plant.

Article 9 Regulated Activities

9.1 The following activities shall be regulated by the Town of Newport and shall
require a permit from the CEO. The activities are: land spreading of sludge and residuals,
storage of sludge and residuals, land spreading and storage of septage, and composting
operations.

9.2 The land spreading of short paper fiber, commercial incinerator ash and compost
are not a regulated activity.

Article IO Permit Requirements

10.1 No person shall conduct or allow on his/her property any of the activities listed in
section 9.1 without first obtaining a permit for that purpose from the Planning Board. The
CEO shall attach an application form for the purpose of obtaining all the required
information from the applicant. The fee for the permit shall be $150.00 and shall be
issued for a period of one year and shall be presented with the complete application to the
Code Enforcement Officer. The permit fee is non-refundable. The permit shall be issued
for a period of one year and shall be subject to an annual renewal permit.

10.2 Annual Renewal Permit

All applicants that plan to continue operations shall obtain an annual renewal permit from
the Code Enforcement Officer within 15 days of the expiration of their original permit.
The non-refundable renewal permit fee shall be $75.00. Any applicant that does not obtain
the annual renewal permit shall submit an application to the Planning Board for a new
permit. The renewal permit shall be obtained for any activity that plans to continue
10.3 Permit Modifications

The expansion and/or enlargement of any regulated activity shall require a permit from the Planning Board according to the requirements for a new permit. Minor changes or revisions to the original application shall be submitted to the Code Enforcement Officer (CEO) for review and approval. The CEO may request the Planning Board's input prior to making a decision about the proposed change. The applicant shall be responsible for making any permit modifications with the Department of Environmental Protection as required.

Article 11 Permit Submission Requirements

11.1 New Permits

All new permits for any regulated activity shall be filed on the forms provided by the Planning Board and shall include the following information:

11.1.1 The complete application submitted to the Department of Environmental Protection for the proposed activity. This shall include all the required permit attachments.

11.2 The $150.00 application fee,

11.1.3 Construction drawings for any buildings and/or structures proposed for the activity.

11.1.4 A list of names and addresses of all property owners of record within 500 feet of the proposed activity.

11.1.5 A map of the proposed site showing any local sensitive areas within 1000 feet of the site.

11.1.6 A report from the Code Enforcement Officer indicating that the site was inspected for compliance with the provisions of this Ordinance.

11.2 Renewal Permits

All renewal permits for any regulated activities shall be submitted to the Code Enforcement Officer on the forms provided and shall include the following:
11.2.1 AU required testing data and/or reporting data that was required to be submitted to the DEP during the preceding calendar year.

11.2.2 The $75.00 renewal fee

11.2.3 Any proposed changes or modifications to the permit.

Article 12 Application Procedure

12.1 New Permits
The application procedure outlined below shall be followed for all new permit applications:

12.1.1 The applicant shall obtain a copy of this Ordinance and application form from the Code Enforcement Officer.

12.1.2 The applicant shall complete the application and arrange an inspection of the site with the CEO who shall check the location for compliance with this Ordinance.

12.1.3 The CEO shall complete an inspection report and submit a copy to the applicant to include with the application.

12.1.4 The applicant shall submit a complete application to the CEO and request to be placed on the Planning Board Agenda for consideration of the proposal.

12.1.5 The Planning Board shall schedule a hearing on the proposed application within 30 days of the CEO receiving the complete application. The Planning Board shall provide notice of the date and time of the hearing to the applicant at least 20 days prior to the date of the hearing, in order to allow adequate time for notification of property owners of record and legal notices.

12.1.6 The applicant shall notify all property owners of record within 500 feet of the proposed site of the date, time, place, and purpose of the hearing by certified mail the applicant shall submit proof to the Planning Board that the letters were sent to each property owner of record. The letters shall be mailed at least 10 days prior to the scheduled hearing. Failure of any party to receive a notice shall not invalidate the hearing proceedings, provided that the applicant can show proof that the letters were mailed.

12.1.7 The applicant shall place one legal ad in a newspaper of general circulation in the area indicating the date, time, place, and purpose of the hearing. The ad
shall be placed at least 7 days prior to the scheduled hearing. The applicant shall submit a copy of the ad to the planning board.

12.1.8 The Planning Board shall review the proposed application for compliance with this Ordinance and shall hear testimony from the applicant, property abutters and other interested parties.

12.1.9 The Code Enforcement Officer shall attend the hearing and provide information to the Planning Board concerning the site inspection.

12.1.10 The Planning Board may decide to conduct a site visit prior to rendering its decision.

12.1.11 The Planning Board shall review and decide upon the application based upon the following review standards:

12.1.11.1 The application is complete.

12.1.11.2 The applicant has complied with all hearing notification requirements.

12.1.11.3 The Code Enforcement Officer has conducted a site visit and finds that the proposal complies with all of the applicable provisions of the Ordinance.

12.1.11.4 The proposed activity conforms to all the applicable provisions of this Ordinance.

12.1.12 The Planning Board may decide to approve the application, approve the application with conditions in order to bring the proposal into compliance with this Ordinance, or deny the application.

12.1.13 The Planning Board shall issue a written decision and shall indicate the reasons for their decision by a finding of fact. The written decision shall be mailed to the applicant within 7 days of a decision.

12.1.14 The Planning Board shall grant or deny the permit to the applicant based upon the board’s written finding of fact. The permit shall be issued within 7 days of the final decision of the Planning Board.

12.2 Renewal Permits
The application procedure outlined below shall be followed for all renewal permits:
12.2.1 The applicant shall, within 15 days of the expiration of the existing permit, submit a renewal application form to the Code Enforcement Officer on the forms provided.

12.2.2 The Code Enforcement Officer shall review the permit request and shall issue the renewal permit if the application is complete and conforms to the provisions of this Ordinance.

Article 13 Performance Standards

13.1 Notification Standards

13.1.1 The applicant shall notify the Code Enforcement Officer at least 24 hours prior to any sludge, residuals or septage land spreading activity.

13.1.2 The applicant shall submit all test reports, annual reports and any other data required as per the DEP permit to the Code Enforcement Officer at the time of the annual permit renewal. The Code Enforcement Officer shall file this information with the original permit.

13.1.3 The applicant shall notify the Code Enforcement Officer of any change or modification in the activity, supplier, or type of material and request that the original permit be amended. Failure to notify the Code Enforcement Officer of any alteration in the original permit shall constitute a violation of this Ordinance.

13.1.4 Applicant shall supply CEO with the locations of all holding/storage sites, to be filed with the permit.

13.2 Inspection

13.2.1 Upon notification that land spreading will occur at the site, the Code Enforcement Officer shall inspect the site during or within 48 hours after spreading has occurred. The Code Enforcement Officer shall maintain a record of each inspection.

13.2.2 The Code Enforcement Officer shall inspect the site for compliance with this Ordinance and shall notify the applicant in writing of any violation along with the steps necessary to remedy the situation.

13.2.3 The Code Enforcement Officer shall respond to all complaints concerning any activity regulated by this Ordinance and determine if there are any violations of this Ordinance. A copy of all complaints shall be provided to the applicant.
13.2.4 The applicant shall allow the Code Enforcement Officer to act the activity during normal business hours.

13.3 General Standards

13.3.1 AU activities shall be performed in accordance with the regulation and provisions contained in this Ordinance and the applicable DEP permit. The applicant shall provide to the Code Enforcement Officer all annual reporting data required by the DEP at the time of permit renewal. Any activity not performed in accordance with this Ordinance shall constitute a violation of this Ordinance.

13.3.2 All activities shall conform to the following general standards as applicable:

13.3.2.1 Land spreading shall not occur during the following time period; November 15th to April 15th,

13.3.2.2 Land spreading shall not occur on frozen ground or if the ground is saturated. A waiver may be allowed if approved by Best Management Practices as defined by the Maine Department of Agriculture and approval of the Code Enforcement Officer.

13.3.2.3 Sludge, residuals or septage are to be tilled into the soil.

13.3.2.4 This activity shall occur within a seven day period, weather permitting.

13.3.2.5 Whenever possible, temporary sludge storage sites shall be left untouched until spreading occurs.

13.3.2.6 No material will be spread within 500 feet of any residence.

13.3.2.7 All activities shall conform to the setback requirements established by DEP and for local sensitive areas contained in this Ordinance.

13.4 Transportation

13.4.1 The applicant shall take all reasonable measures to transport sludge, residuals, compost, or septage to the activity site in a manner that reduces any odors or other nuisances to residents and businesses along the access route. Whenever possible, an access route shall be found through the least populated area.

13.4.2 All material transported over a public way must be covered.
13.5 Local Sensitive Areas

13.5.1 The Town may designate local sensitive areas that due to environmental conditions, require setback distances greater than those prescribed by DEP. The Town shall identify and map all local sensitive areas and designate appropriate setbacks to protect these locations from the activities regulated by this Ordinance. These locations shall be sensitive to one or more of the following conditions: phosphorus, stormwater runoff, erosion and contamination from nutrients and/or other compounds usually found in sludge, residuals and septage.

13.5.2 Local sensitive areas may include but are not limited to some of the following: wetlands, rivers, streams, brooks, steep slopes, fishing areas, clam or other shellfish flats ponds, and lakes.

13.5.3 The local sensitive areas for the Town of Newport are as follows:

1. East of Routes 7 & 11 (Moosehead Trail) from the Intersection of Routes 2, 7 & 11 to the Mulligan Stream bridge,
2. Areas East of Mulligan Stream to the West side of Routes 7/11,
3. South side of the County Woods Road from Routes 7/11 to the intersection of Route 222 (Mullen Road),
4. South of Route 222 (Mullen Road) to the Stetson Town line,
5. North of Route 2 at a location beginning at the intersection of Routes 2/7/11/100 to the intersection of the Stetson Road,
6. North of the Stetson Road, continuing until the Stetson town line.

Article 14 Enforcement

14.1 It shall be the duty of the Code Enforcement Officer to enforce all the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Said violation shall be corrected within 30 days. Each day of a continuing violation shall be considered a separate violation.

14.2 After notification and the 30 day correction period, any person including, but not limited to, a landowner, a landowner's agent, or a contractor who is responsible for a
violation of this Ordinance is liable for the penalties in Title 30-A MRSA, Section 4452. If court action is necessary to enforce this Ordinance, the violator shall be responsible for all court costs and the Town's reasonable attorneys fees. Any fine recovered through this Ordinance shall accrue to the Town.

14.3 The Code Enforcement Officer shall maintain a record of all inspections and complaints, notices of violations, resolutions of any violations, and enforcement actions.

14.4 A copy of the notice of violation shall be sent to the Department of Environmental Protection. The DEP shall also be notified upon the correction of any violation.

I hereby certify that this is a true copy of the Town of Newport's Sludge Ordinance as approved by the voters at the Annual Town Meeting held in Newport on March 11th, 2000.

Attest: Paula A Scott, Municipal Clerk
SPECIAL AMUSEMENT ORDINANCE

ARTICLE I

Title, Purpose & Definitions

Section 101. TITLE

This Ordinance shall be known and may be sited as the Special Amusement Ordinance of the Town of Newport, Maine.

Section 102. PURPOSE

The purpose of this Ordinance is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by 28 MRSA Subsection 702.

Section 103. DEFINITIONS

103.1 Entertainment—For the purposes of this Ordinance, “entertainment” shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

103.2 Licensee—For purposes of this Section, “licensee” shall include the holder of a license issued under the Alcoholic Beverage Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other entity, or any agent, or employee of any such licensee.

ARTICLE II

General

Section 201. PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the
municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business therein described either denied or revoked and if so, the applicant shall describe those circumstances specifically; whether the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant’s current liquor license.

No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

The fee for a special amusement permit shall be $75.00.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days of the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find the issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.

A permit shall be valid only for a period from the initial issuance until May 31st of each subsequent year.

Section 202. INSPECTIONS

Whenever inspections of the premises used for or in connection with the operations of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any official, or employee to make an inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.
In addition to any other penalty which may be provided, the municipal officers may, revoke the special amusement permit of any licensee the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official or employee while in the performance of his duty. Provided that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

Section 203. SUSPENSION OR REVOCATION OF A PERMIT

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

Section 204. RULES AND REGULATIONS

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulation governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of the Ordinance.

Section 205. PERMIT AND APPEAL PROCEDURES

205.1—Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date the request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days after an application for a permit which has been denied.

205.2—Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal Board of Appeals as defined in 30 MRSA Subsection 2411. The municipal Board of Appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary or a preponderance of the evidence on a violation of any ordinance, article,
205.3—Coin operated, amusement devices shall be operated during regular business hours with the exception of Sunday morning (until noon) and after the hours of 7:30 a.m. to 3:30 p.m. on school days.

Applicants shall be required to divulge plans that they have in regard to supervision of said premises to prevent vandalism and other property damage, personal injury and potential parking and traffic flow problems.

Section 206. ADMISSION

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

ARTICLE III

Penalty, Separability & Effective Date

Section 301. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more the Twenty-five Dollars ($25.00) for the first offense and up to Fifty Dollars ($50.00) for the subsequent offenses, to be recovered, on complaint, to use of the Town of Newport.

Section 302. SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

Section 303. EFFECTIVE DATE

The effective date of this Ordinance shall be March 5, 1979

“Attest, a true copy of an ordinance entitled Special Amusement Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine and adopted by the Town meeting on the 5th day of March 1979.”

08/30/2013 Signature: Paula D. Scott
Municipal Clerk
STREET ADDRESSING ORDINANCE OF THE TOWN OF NEWPORT

Section 1. Purpose
The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery.

Section 2. Authority
This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A MRSA Section 3001.

Section 3. Administration
Upon adoption of this ordinance, the Code Enforcement Officer (herein CEO) shall submit to the Selectboard a list of names for all existing Roads or Streets. The Selectboard shall meet and decide whether to accept or modify the list of names presented by the Code Enforcement Officer no later than March 30, 1996. After March 30, 1996 the Code Enforcement Office shall be responsible for assigning Road names and numbers to all properties on existing and proposed roads not otherwise named by the Selectboard and the CEO shall maintain the following records in administering this Ordinance:

a. A Newport map for official use showing road names and numbers.
b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

Section 3.1—For purposes of this Ordinance, the terms Roads and Streets have the same meaning and Roads and Streets shall be defined as any town way, public or private way including driveways, alleys, boulevards, lanes, fire lanes, avenues, highways and other rights-of-way.

Section 4. Naming System
All roads in Newport that serve two or more addresses shall be named whether ownership is public or private. A road name assigned by the CEO shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system.

a. Similar names—no two roads shall be given the same or similar-sounding (e.g. Beech or Peach, Pine Road and Pine Lane) names.
b. Each road shall have the same name throughout its entire length.

Section 5. Numbering System
Numbers shall be assigned every fifty (50) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system.

a. All number origins shall begin from the designated center of Newport or that end of the road closest to the designated center. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.

c. Every structure with more than one principal use or occupancy (i.e. duplexes will have two separate numbers, apartments will have one road number with an apartment number, such as 235 Maple St., Apt. 2.)

Section 6. Compliance
All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure the assigned numbers in the following manner:

a. Number on the Structure or Residence. Where the residence or structure is within fifty (50) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.

b. Number at the Street Line. Where the residence or structure is over fifty (50) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mailbox, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

c. Size and Color of Number. Numbers shall be displayed in a color and size approved for us by the CEO and shall be located as to be visible from the road. (4" numbers)

d. All owners of structures shall remove any different number that might be mistaken for or confused with, the number assigned in conformance with this ordinance.

Section 7. New Developments and Subdivisions

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

a. New Developments. When any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the CEO. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective subdivider shall show proposed road names and a lot numbering system that has been approved by the Code Enforcement Officer on the Preliminary and Final Plan submissions to the Planning Board.
Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines, or dots, in the center of the streets every fifty (50) feet so as to aid in assignment of numbers to structures subsequently constructed.

Section 8. Effective Date

This ordinance shall become effective as of November 8, 1995.

It shall be the duty of the Code Enforcement Office to notify by mail each owner and the Post office of the new address within thirty days. It shall be the duty of each property owner to comply with this ordinance within thirty (30) days of notification. On new structures, numbering will be installed prior to final inspection, if required by local ordinance or when the structure is first used or occupied whichever comes first.

Section 9. Penalty

a. Whoever violates any provision of this Ordinance shall be fined not less than $10.00 nor more than $100.00 to be recovered, on complaint, to the use of the Town of Newport. Each day’s violation shall constitute a separate offense.

b. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorney’s fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

Section 10. Severability

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Signed:
10/18/95

“Attest, a true copy of an ordinance entitled Street Addressing Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine and adopted by the Town meeting on the 7th day of November 1995.”

Date: 08/31/2012

Signature: [Signature]
Municipal Clerk
TOWN OF NEWPORT
STREET OPENING & CURB CUT ORDINANCE

Sec. 1-1. PERMIT REQUIRED.

Any excavation within the Town’s streets, sidewalks, esplanades or other public right-of-way shall only be permitted in accordance with this ordinance.

Except as otherwise provided in this ordinance, no person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town.

Sec. 1-2. APPLICATION

a. No street opening permit shall be issued unless a written application for a street opening permit is submitted to the Town on a form provided by the Town. The written application shall contain such information as reasonably required by the public works authority.

b. In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town or have entered into a workout agreement to bring any outstanding obligation current.

c. The applicant shall submit with the permit application a cost estimate covering all work covered by the permit. The Director of Public Works may reject an estimate if, in his or her sole discretion, the estimate is not reasonable given the work proposed.

d. In the event that a street opening is necessary on an emergency basis, the party conducting the work shall file for a permit after-the-fact as soon as practicable under the circumstances.

Sec. 1-3. GENERAL CONDITIONS

a. Permits shall be granted only if the applicant has properly notified all utilities, contacted “Dig-Safe”, and obtained an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities’ satisfaction.

b. The applicant, person or business doing the actual work, and the owner for whom the work is being done are joint and severally responsible for obtaining the permit and complying with all permit obligations and conditions.
Sec. 1-4. ANNUAL WORK PROGRAM TO BE SUBMITTED BY UTILITIES

Each year on or before March 31st, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies defined in Section 1-1 and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not contained within each utility’s respective planned work program, without cause except for emergencies and house service lines.

Sec. 1-5. DURATION

Excavation work must be started no later than thirty (30) days from the date of issue of the street-opening permit. After the expiration of this thirty (30) day period, such permit shall become null and void unless renewed prior to expiration of the permit. Permits can be extended up to a maximum of one year at the discretion of the town.

Sec. 1-6. FEES AND CHARGES

Fees and charges shall be adopted by the Board of Selectmen as a part of the Fee Schedule for the Town of Newport

Sec. 1-7. BONDS

a. If the estimated cost of the work to be covered by the permit exceeds $10,000.00, an applicant shall be required to post a performance guarantee equal to the total anticipated cost(s) of the work to be covered by the permit prior to being issued any permit. The performance guarantee may be in the form of bonds, irrevocable letters of credit, or cash deposits.

b. If the estimated cost of the work to be covered by the permit is less than $10,000, an applicant shall be required to provide a cash deposit with the Town in the amount of 10% of the total anticipated costs(s) of the work to be covered by the permit as guarantee, provided that in no cases shall this deposit be less than $500.00.

c. The Town shall retain the guarantee for one year from the date of completion of the work to assure that the construction standards have been adhered to. Deposits will only be refunded upon approved inspection by a town official, making certain all work is completed in accordance to this ordinance and municipal standards.

d. In the event the Director of Public Works determines, in his or her sole discretion, that the work for which the guarantee was posted is inadequate, fails to meet the applicable standards, or latent defects surface in the one-year period following completion of the work the Director may, after notice to the applicant, use the guarantee to repair the work to his or her satisfaction.
Sec. 1-8 PERMIT EXCEPTION

State and State Aid roads are exempt from the Town of Newport(s) permit process but do require a MDOT permit Application(s) and information can be obtained through the MDOT office in Bangor.

Sec. 1-9 CONSTRUCTION STANDARDS

This ordinance authorizes the Town of Newport Board of Selectmen to draft and enact construction standards. Oversight of standards will be under the direction of the Newport Public Works Foreman.

1. The Contractor is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the right-of-way.

2. The entire portion of any entrance within the limits of the right-of-way shall be constructed with a minimum 15-inch well-graded gravel base course. (MDOT Type C)

3. If the entrance grade within the right-of-way exceeds five (5%) percent slope, then the entrance shall have a paved surface within the limits of the right-of-way.

4. When sidewalk or curb exists at the proposed entrance the contractor shall remove and replace such materials at the contractor's expense. Any granite curb must be reinstalled. If removed by the contractor, it will remain the property of the Town.

5. Where curb exists, curb tip-downs shall be provided at each side of a new entrance.

6. Where sidewalk is removed to accommodate a new entrance, a new walk surface or equal type construction is to be provided. The sidewalk area at all entrances is to meet handicap accessibility requirements and conform to the Americans with Disabilities Act guidelines. In general sidewalks shall meet the following criterion:

   a. The maximum sidewalk longitudinal transition slope is not to exceed 1
      vertical to 12 horizontal

   b. The maximum sidewalk cross-slope is not to exceed 2%.

   c. No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

7. Pavement will be cut with a pavement breaker or saw prior to excavation.

8. Undermining during excavation will require a pavement cut one foot beyond top outer ledge of construction area.
9. Backfill will be placed in 12 inch or less lifts and thoroughly compacted at each lift, with the removed material, or like material.

10. All backfill shall be suitable material consistent with good engineering practices.

11. The final base shall consist of 15 inches of gravel with allowance made for a final patch of 2 ½ inches of bituminous asphalt with a minimum overlay of 1½ inches of binder.

12. Upon completion of backfilling, the excavated area shall be maintained daily by adding gravel as needed.

13. A temporary patch of 2 inches of bituminous asphalt must be placed within five (5) days of backfilling and maintained until the permanent patch is placed within 90 days, weather permitting.

14. At the time of the final patch, the temporary patch will be cut out and removed to allow for 2½ inches of bituminous asphalt. The Public Works Director must be notified before the permanent patch is placed.

15. The person (contractor) opening the road is responsible for maintenance of the area for a period of one (1) year from final backfilling. The contractor shall adhere to all OSHA standards and shoring or sheeting must be provided in a roadway where depths exceed standard un-shored depths. Cutting back on a slope will not be allowed.

16. All sidewalks, curbing, tree belts, etc. shall be returned to their original state if applicable.

Sec. 2.1 NOTICE TO ALL PERSONS SECURING ROAD OPENING PERMITS:

Persons securing road-opening permits are responsible for insuring safety of the public in the excavated area.

Adequate safety and warning devices must be place at appropriate locations to adequately warn and protect the motoring and pedestrian public.

Such devices might include, but not necessarily be limited to reflective signs, barricades, and barrels along with lights.

Any liability arising from improper safeguards shall be borne by the person(s) securing the permit.

The Town of Newport is not responsible for providing devices mentioned above to persons performing the excavation.
THE DEADLINE FOR HIGHWAY OPENING IN THIS AREA OF THE STATE IS NOVEMBER 1ST. THE FOLLOWING WINTER CONDITIONS, WHICH SHALL BE IN ADDITION TO OTHER RULES AND CONDITIONS APPLICABLE, WILL APPLY TO ALL PORTIONS OF THE WORK BEGUN AFTER NOVEMBER 1ST:

1. The permit holder must maintain all trenches and other disturbed areas until the frost is out of the ground in the spring.

2. At the option of the permit holder, permanent pavement may be placed until and including November 14th, however, no permanent pavement shall be placed over frozen material. After and including November 15th, the permit holder must apply temporary pavement at least three inches thick to all trenches and disturbed areas subjected to vehicular or pedestrian traffic. This temporary pavement must be maintained, as indicated in (1) above, until the frost is out of the ground in the spring, after which it shall be removed and replaced with the appropriated depth of permanent pavement.

3. Prior to November 30th when snowfall of sufficient measure to require plowing is predicted, all excavations shall be back filled at the end of the day.

4. No frozen material shall be included in any back fill, nor shall any back fill be placed on frozen material.

5. In the event that conditions become such that the operation becomes a hazard to the traveling public, installation work shall be terminated.

Sec. 2.2 PURPOSE

This division provides for the review of any entrance onto a public way for compliance with sound construction and design practices to ensure that traffic safety, drainage and public improvements are not adversely affected.

Sec. 2.3 PERMIT REQUIRED

a. No driveway, entrance or approach or other improvement within the limits of the right-of-way for any public road may be constructed, altered or relocated except in accordance with an Entrance Permit issued by the Town upon application.

b. The Board of Selectmen will establish all fees pursuant to this permit.

c. The entrance permit shall be valid for a period of twelve months from the date of original issue.

d. No entrance, approach or other improvement constructed on the right-of-way shall be relocated or its dimensions altered without an Entrance Permit from the town.
e. The owner is responsible for future maintenance of the entrance within the limits of the right-of-way and shall maintain the entrance in accordance with the approved permit.

f. Applicants who desire an entrance permit on a State Highway need to contact MDOT Bangor Division and are responsible to adhere to any State criteria for the issuance of said permit. The Town of Newport will not require an application for, nor will it issue permits for Public ways defined as State Aid and State Highways.

Sec. 2.4 TOWN HELD HARMLESS

a. The applicant shall hold harmless the Town and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of an Entrance Permit.

Sec. 2.5 APPROVAL CRITERIA

a. General: Entrance should be designed and constructed to provide safe access to the public way.

b. Applicant: The applicant for a permit shall be the contractor of the property being served. Any driveway or approach constructed by the owner shall be for the bonafide purpose of securing access to the owner’s property and not for the purpose of parking or servicing vehicles on the right-of-way.

c. Geometry:

1. The entrance shall be designed such that the angle into the right-of-way does not exceed 10%.

2. For uncurbed public ways, the entrance shall in general, slope away from the road surface at a rate of not less than a quarter inch per foot, no more than one inch per foot for a distance not less than the prevailing width of the existing shoulder but in no case less the four (4) feet from the edge of the pavement.

3. The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees.

4. No part of the entrance shall extend beyond the property lot frontage for the lot being served.

5. The entrance shall not be located close to an intersection. Entrance shall be placed a minimum of 50 feet from said intersection if possible.

d. Drainage:
1. Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the applicant. The applicant must provide at his/her expense suitable and approved drainage structures at all entrances.

2. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.

3. Where a drainage culvert is required to maintain roadside drainage, the Town must approve the pipe diameter and length and the type of pipe material prior to installation. In any case, the pipe size shall be no smaller than 12 inches in diameter.

4. For all new construction, home or business owners are responsible for the purchase and installation of their culverts after coordinating with the Public Works Department. Any damaged or destroyed culverts will be replaced by the Town.

“Attest, a true copy of an ordinance entitled Town of Newport Street Opening and Curb Cut Ordinance, as certified to me by the municipal officers of the Town of Newport, Maine and adopted by the Town meeting on the 6th day of March, 2004.”

Date: 08/31/2012

Signature: Paula O. Scott
TOWN OF NEWPORT
TAX INCREMENT FINANCING (TIF) POLICY

State of Maine law allows Tax Increment Financing (TIF) to be used as an economic development tool for municipalities to assist in the cost of private economic development and promote economic development. Tax Increment Financing (TIF) is designed to encourage industrial, commercial, or retail development; increase employment opportunities; and broaden the tax base in the Town of Newport.

PURPOSE

The purpose of this Policy is to articulate to existing or potential businesses Newport’s desire to encourage and support economic development, which is determined by the Selectboard to be compatible with the Comprehensive Plan and/or existing local ordinances and which provides a community benefit.

Notwithstanding compliance with any or all of the guidelines below, the creation of a TIF District is a policy choice to be evaluated on a case-by-case basis by the Selectboard, and upon the Board’s recommendation, placed upon an annual or special town warrant for approval at town meetings. A TIF is not a right under Maine law and meeting the State TIF requirements or the criteria established in this Policy does not create a right or entitlement for any applicant.

AUTHORITY

The authority for creation of Tax Increment Financing Districts is established in 30-A Maine Revised Statutes Annotated, Section 5252-5254. This Policy may be modified at any time by a majority of the Selectboard after the Board has entertained comments and concerns at a properly advertised public hearing to be held prior to, or simultaneously with, the Board meeting at which the proposed amendment will be considered.

APPROVAL AT TOWN MEETING

A TIF application may only be approved at a Town Meeting. Whenever practical, a TIF application shall be considered at the Annual Town Meeting;
however, if the Selectboard determines there is a clear and pressing community need to act immediately, or if the applicant provides evidence that delayed approval will be detrimental to the proposed project, the application may be voted upon at a Special Town Meeting.

BASIC PROVISIONS

- The Town of Newport TIF mechanism shall be utilized as an economic development incentive for attracting desirable new commercial establishments to the area. When determining whether the project should be presented to the public for approval, the Board shall consider the value of the proposed improvements and increased/retained employment or other public benefits in relationship to the size, profitability, and business environment of the applicant.

- The Town of Newport may, with approval from the Maine Department of Economic and Community Development, establish two types of TIF districts. One type allows the Town to install public infrastructure through the issuance of bonds and to retire the bond using the tax increment produced by the investing business’s project. Revenue captured in a TIF district may also be used by the municipality to fund uses listed in the approved Development Program. The second type of district may return tax increment directly to the investing business through a Credit Enhancement Agreement (CEA).

- TIF shall be a cooperative effort. Private investors and companies are required to demonstrate a need for tax increment financing and to provide all necessary documentation for the application. The applicant shall be responsible for all costs associated with the TIF application including legal fees and costs incurred by the Town. The Town may require the applicant to sign a Professional Fee Consent Form.

- The project shall create increased assessed value (since March 31st of the preceding tax year) of at least $500,000.00.
• The Selectboard may consider significant job creation or prior investment as reasons for an exception to the minimum increased assessed value requirement.

• The term of a TIF agreement shall be negotiated between the applicant and the Selectboard. The Town shall seek to limit the duration of tax recapture to applicants in the form of a Credit Enhancement Agreement to not more than ten (10) years.

• For purposes of a Credit Enhancement Agreement, the Town encourages the use of TIF for recapture of real property taxes, and discourages recapture of personal property taxes.

• The Town Manager shall conduct initial review of proposed TIF projects and make recommendations to the Selectboard. If recommended to proceed, the Selectboard, with assistance from the Town’s Economic Development consultant shall engage an attorney to complete the Development Program and Credit Enhancement Program. Before recommending a TIF project to residents at a Town Meeting, the Selectboard shall conduct a public hearing.

• A TIF Agreement may provide for an annual administrative fee of up to 2% deducted from the applicant’s tax recapture for the duration of the agreement.

• The Town shall seek to limit the tax recapture for an applicant to not exceed 50% of the new real property values (total assessed value less original assessed value) over the duration of the Credit Enhancement Agreement. The Selectboard may, however, structure a CEA to provide benefits that average 50% over the duration of the Agreement and that provide benefits on a declining basis.

• Assignment of a Credit Enhancement Agreement shall be at the sole discretion of the Town and allowed only if the assignee is bound by terms and conditions that meet TIF Approval Criteria.
- The Credit Enhancement Agreement may contain provisions for the Town to cancel CEA benefits to the business if:
  - The business moves to another community
  - There is a change in use of the property
  - There is a significant decrease in the number or jobs
  - Other conditions of the Credit Enhancement Agreement are not met

- The Selectboard may override these guidelines if it determines that a project merits such treatment, and further reserves the right to amend or otherwise change these guidelines.

- Financial capability to complete the project including the following:
  - A letter from a financial institution, governmental agency, or other funding agency indicating a commitment to provide a specified amount of funding and the uses for which those funds may be utilized
  - In cases where funding is required but there can be no commitment of money until approvals are received, a Letter of Intent from the appropriate funding institution indicating the amount of funds and their specified uses will be accepted
  - Evidence indicating availability of funds if the developer will personally finance the development

- Applicant must comply with all statutory and regulatory guidelines of the Town and State

- All proposed projects must be consistent with the Town Comprehensive Plan, if such Plan has been approved prior to the date of application.

APPLICATION CONTENTS

All TIF applications must:

- Provide enough detail to clearly describe the scope of the project, beneficiaries and costs;
• Include a detailed description of any public improvements to be financed using captured funds, and information regarding how the funds will be spent;

• Provide a statement explaining the impact of proposed project upon the general community;

• Present all data required by the State 30-A MRSA, Section 5252-5254; and

• Provide any additional information the Selectboard deems necessary to review and evaluate the application.

APPLICATION PROCEDURES

Applicants are advised that the process of reviewing, evaluating and scheduling a TIF application for public vote may take up to 60 days. Applications will be accepted at any time; however, applications submitted less than 60 days prior to the Town Meeting or at a public hearing held no earlier than 30 days prior to the Town Meeting may require a Special Town Meeting at the Selectboard’s discretion. Notwithstanding an applicant’s need to present a TIF application when the business is ready to proceed with the proposed project, the Town prefers such applications be voted upon at the Annual Town Meeting, whenever possible.

The Town Manager and Assessor shall be responsible for verifying original assessed values for the TIF Program. The applicant and or its consultant will be given the opportunity to make an oral presentation to the Selectboard and the Town Manager shall advise the Selectboard regarding the major elements of the proposal and the cost and benefits to the community.

The Town will hold a public hearing to solicit public comments and questions regarding the TIF District either immediately prior to Town Meeting or at a public hearing held no earlier than 30 days prior to the Town Meeting. The public hearing shall be advertised in accordance with Town and DECD requirements. The application will be considered by voters at the Annual Town meeting.
APPROVAL CRITERIA

- Does the application meet the “Basic Provisions” outlined above?
- Does the project create or retain long-term permanent employment with wages equal to or higher than the local average?
- Will any new jobs created be advertised and promoted within Newport?
- Does the proposal contribute to the general economy of the community?
- Will the improvements have a net positive impact on Newport’s business community after considering all factors, including effects on established businesses?
- Does the project minimize traffic impacts and is it designed in a manner, which does not contribute to commercial sprawl?
- Do any structures to be built blend aesthetically with the surrounding area with regard to style and setting?
- Will new development comply with the Comprehensive Plan as well as State and local ordinances?
- Does the project improve and/or broaden the tax base?
- Does the proposal improve blighted buildings or areas in need of redevelopment?
- Does the proposed District support community projects or create public benefits such as granting access to open spaces, creating student internships, providing job training, supporting local contractors and suppliers?
- Will this project encourage other businesses to invest in their buildings, purchase equipment or create jobs?

March 11, 2014

Attest, a true copy of a policy entitled Town of Newport Tax Increment Financing (TIF) Policy, as certified by the municipal officers of the Town of Newport.

Signature: Paula A Scott, Municipal Clerk
1. Purpose

A. Purpose: The purpose of this ordinance is to regulate the sale of prepared food. The regulations are those which the town meeting and board of selectmen in public meetings have found to be necessary in order to protect the general welfare, public safety & health of the Town of Newport and its citizens.

2. License

A. License: Any place where food or drink is prepared or served to the public as a profit-making venture, for consumption on the premises, including but not limited to, deli, outdoor facility, bakery, sandwich shop, convenience store, restaurant, motel and hotel, shall be licensed annually as a victualer in order to operate within the Town of Newport.

3. Exceptions

A. Exceptions: A public school, public service organization, private club, church organization, fire department, or any other non-profit organization selling food or drink to raise money for a charitable cause shall be exempt from the requirements of this license. Grocery stores, except those selling food items prepared and consumed on the premises, shall be exempt. Establishments selling food and drink only through vending machines shall also be exempt.

The Board of Selectmen shall have the authority to decide if any establishment is exempt or not.

4. Applications

A. Application Form: An establishment shall apply for a victualers license on a form designed for that purpose by the Town of Newport. Failure of an applicant to fill out the form completely, or any misstatement on said form shall result in the denial of the license.

B. Renewals: The Board of Selectmen shall during the month of May, annually, hold a public hearing on all victualers and at such time shall make a decision to (1) approve the renewal request, (2) table the renewal request, setting a date for the applicant to come before the Board to answer questions affecting consideration of the renewal request, or (3) for reason(s) noted, disapprove the request.

C. New applications: New applicants may apply any time during the year. The Board of Selectmen shall hold a public hearing within 21 days of the receipt of the new application.
D. Notice: All public hearings scheduled for both renewal and new victualer licenses shall be posted in two (2) or more public places at least seven (7) days prior to said meeting.

E. License Term: A new license, when granted, shall be valid until May 31st immediately following said granting of license; renewals shall be valid until May 31st of the following year.

5. License:

A. The annual fee for a new or renewal license shall be fifty ($50.00) dollars. A quorum of at least three members of the Board of Selectmen must be present to act on any license. A decision to grant, table or revoke a license shall be made by a majority of the Board present. The action taken by the Board shall be effective immediately. The Town Clerk shall issue the license itself within 48 hours of receiving the decision of the Board. If denied, or revoked, the Board shall sign an order specifying the reasons thereof, and the applicant shall be notified of this decision within 24 hours after said action. An establishment shall at all times display its current victualers license in a place within the establishment where it can readily be viewed by any member of the public.

6. Penalty:

A. Penalty: Any act made unlawful by this ordinance and any violation of this ordinance shall be punishable by a fine of not more than fifty ($50.00) dollars for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense.

7. Severability

A. If any section, subsection, sentence, clause or phase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Signed February 18, 1998

Fees Amended 1/24/2007

"Attest, a true copy of an ordinance entitled Victualer’s License Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 6th day of March, 1998."

Date: 08/31/2012

Signature

Municipal Clerk
WATERFOWL CONTROL ORDINANCE
OF THE TOWN OF NEWPORT

Title:

This ordinance shall be known and may be cited as the “Waterfowl Control Ordinance” of the Town of Newport.

Section 1. Statement of Fact:

The large number of fowl attracted by feeding and baiting in and around public and private swimming areas, parks and boat launching areas of Sebasticook Lake increases the presence of harmful bacteria which present a threat to public health. Fecal matter from waterfowl contributes to the phosphate loading of Lake Sebasticook thereby resulting in lessened water quality.

Section 2. Purpose:

The purpose of this ordinance is to control the feeding and baiting of migratory and non-migratory waterfowl (hereinafter referred to as “fowl”) and those fowl classified as gulls in order to protect the public health and the water quality of Sebasticook Lake by reducing the amount of fecal matter from these fowl deposited in the water on the adjacent public and private shoreline and waterfront property caused in part by the feeding and baiting of these fowl by the public.

Section 3. Prohibited:

No person, except the Commissioner of the Maine Department of Inland Fisheries and Wildlife or his/her designee or The Director of the U.S. Fish and Wildlife Service or his/her designee in the conduct of waterfowl management practices, shall feed or bait, any migratory or non-migratory waterfowl or fowl in or over the water within the Shoreland Protection area in the Town of Newport as identified in Shoreland Zoning Ordinance of the Town of Newport. This ordinance is not intended to prohibit the raising of domestic waterfowl as allowed by any other ordinance(s). Except that domestic waterfowl must be securely contained or penned in an enclosure in an area so as to prevent fecal matter from the waterfowl entering Lake Sebasticook.

Section 4. Definitions:

The following definitions shall apply unless the context clearly indicates another meaning:

A. Waterfowl and Fowl shall mean any waterfowl of the family Anatidae (ducks and geese) and/or the family Laridae (gulls) either migratory, non-migratory or resident fowl.
B. **Feeding and Baiting** shall mean the placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt or any other feed or nutritive substances, in any manner or form, so as to lure, attract, or entice fowl to, on or over any such areas where such feed items and or materials have been placed, exposed, deposited, distributed or scattered.

Section 5. **Enforcement:**

This ordinance may be enforced by any Animal Control Officer, Code Enforcement Officer, Health Officer or his/her designee or Police Officer of the Town of Newport.

Section 6. **Penalty:**

Whoever violates any provision of this ordinance shall be fined not less than $25.00 to be recovered, on complaint, to the use of the Town of Newport. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorney’s fees, expert witness fees, and costs. Civil process may be waived upon complaint by payment to The Town of Newport of the $25.00 fine within 7 days of date of complaint.

Section 7. **Severability:**

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Signed November 27th 1996 by the Selectman

"Attest, a true copy of an ordinance entitled Waterfowl Control Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 4th day of December 1996".

Date: 08/30/2012

Signature: [Signature]

Municipal Clerk
YARD SALE ORDINANCE
OF THE
TOWN OF NEWPORT, MAINE

Section 1. Purpose.

The purpose of this ordinance is to regulate the maintenance and frequency of yard sales within the Town of Newport.

Section 2. Definitions.

A. Yard Sale. A yard sale is an event organized and established by any person or person for the purpose of selling new or used merchandise or any tangible property to the general public at a location within the Town of Newport where such activity is otherwise not allowed under the terms of the Land Use ordinance of the Town of Newport. The term "yard sale" includes but is not limited to such terms as garage sale, lawn sale, barn sale, rummage sale, moving sale, or benefit sale. A yard sale is not a commercial activity, event or business.

B. Commercial Establishments. A commercial establishment is a business established for the purpose of providing goods or services to the general public or to specific customers in exchange for payment. For purposes of this ordinance, a commercial establishment is one that exceeds the requirements and limitations of this ordinance, by being open for business on a regular basis. A commercial establishment must meet the requirements of any other ordinance, regulation or statute that regulates the conduct, operation, and location of commercial businesses in the Town of Newport.

Section 3. Requirements.

A. No person may establish, maintain or operate a yard sale except as provided in this ordinance.

B. A yard sale or series of yard sales may not extend longer than three (3) consecutive calendar days at the same site or address except that non-profit organizations may apply for more than two yard sales per year.

C. No more than two yard sales may be conducted at the same site or address in the Town of Newport during the same calendar year. No person or persons may conduct more than two yard sales during the same calendar year at any location, except as provided in Subsection B. Such yard sales may not run consecutively and must be separated by at least three calendar days during which any items displayed for sale must be removed from public view.
D. Permit Required. Any person or organization wishing to conduct a yard sale must first obtain a Yard Sale Permit from the Town Clerk, or designee, of Newport.

Section 4. Violations.

Any failure to comply with this ordinance or the terms of any permit or exception granted hereunder constitutes a violation for which the penalty provisions of section 5 shall be applicable.

Section 5. Penalty.

A. Upon being cited by any law enforcement officer or the Town of Newport Code Enforcement officer or designee, any individual or organization conducting a yard sale without a proper permit, shall immediately close the yard sale and correct the violations. A person or organization conducting a yard sale without a valid permit issued by the Clerk or persons failing to correct the violations or continuing to conduct such activity after having been cited will be subject to a fine not less than fifty dollars ($50) or more than five hundred dollars ($500) for each day or part of a day in which the violation exists. Each day's violation shall constitute a separate offense. If the Town of Newport is the prevailing party in any civil action brought to enforce this ordinance, the Town may be awarded reasonable attorneys' fees, expert witness fees, and costs.

Section 6. Severability.

Should any section of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Section 7. Repeal.

Adoption of this ordinance hereby repeals and supersedes all conflicting Yard Sale ordinances adopted prior to the effective date of this ordinance.

"Attest, A true copy of an ordinance entitled Yard Sale Ordinance of the Town of Newport, as certified to me by the municipal officers of the Town of Newport, Maine, and adopted by the town meeting on the 2nd day of March 1996."

Date: 08/30/2012
Signature: Paula A Scott
Municipal Clerk