

ZONING BY LAWS

TOWN OF

NEWPORT, VERMONT

ADOPTED MARCH 6, 1986

ADOPTED FEBRUARY 2, 2006

ADOPTED MARCH 3, 2011

ADOPTED MAY 3, 2018

TOWN OF NEWPORT, VERMONT ZONING BYLAW
TABLE OF CONTENTS

ART I: ENACTMENT AND INTENT	4
sec. 101: Enactment	4
sec. 102: Intent	4
ART II: ESTABLISHMENT OF REGULATIONS	4
sec. 201: Classes of Districts	4
sec. 202: Application of Bylaw Regulations	4
sec. 203: Permitted Uses	4
sec. 204: Site Plan Approval	4
sec. 205: District Regulations	5
sec. 206: Conditional Uses	7
ART III: GENERAL REGULATIONS	9
Sec. 301: Existing Small Lots	9
Sec. 302: Frontage on, or Access to, Public Roads	9
Sec. 303: Protection of Home Occupations	10
Sec. 304: Child Care	10
Sec. 305: Parking	10
Sec. 306: Roads	10
Sec. 307: Flood Hazard Area Requirements	11
Sec. 308: Salvage Yards	15
Sec. 309: Destroyed or Burned or Collapsed Buildings	15
Sec. 310: Planned Unit Development	15
Sec. 311: Agriculture and Forestry	16
Sec. 312 Group Home Provision	17
Sec. 313 Limitation of Bylaw	17
Sec. 314 Other Land Use and Relevant Regulations	17
ART IV: NON-CONFORMING USES	17
Sec. 404: Subject to Conditional Use	18
ART V: ADMINISTRATION AND ENFORCEMENT	18
Sec. 501: Administrative Officer	18
Sec. 501.1 Zoning Permits	19
Sec. 502: Penalties	19
Sec. 503 Planning Commission	20
Sec. 504 Board of Adjustment	20
Sec. 505 Appeal Process	21

Sec. 505.1 Variances	22
Sec. 505.2 Waivers	22
Sec. 505.3 Appeal to Environmental Court	23
Sec. 506 Public Notice	23

ART VI: DEFINITIONS	24
Sec. 601: Word Definitions	24
Sec. 602: Term Definitions	25
ART AMENDMENTS, SEPARABILITY, EFFECTIVE DATE	32
Sec. 701: Amendments	32
Sec. 702: Separability	32
Sec. 703: Effective Date	32
sec. 704: Repeal	32

TOWN OF NEWPORT, VERMONT ZONING BYLAW

ART 1: ENACTMENT AND INTENT

Sec. 101: Enactment

In accordance with 24 VSA, Sec 4301; this zoning bylaw, which is set forth in the text that constitutes this bylaw, is hereby established for the Town of Newport. This bylaw shall be known and cited as the "Town of Newport Zoning Bylaw.'

Sec. 102: Intent

It is the intent of this bylaw to provide for orderly community growth and to further the purposes established in 24 VSA, Sec. 4302.

ART 11: ESTABLISHMENT OF REGULATIONS

Sec. 201: Classes of Districts

For the purpose of this bylaw, the Town of Newport is hereby considered a single district, including the unincorporated Village of Newport Center.

Sec. 202: Application of Bylaw Regulations

The purpose of this bylaw is subject to 24 VSA, Chapter 117. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended and no land, building or structure or part thereof shall be occupied or used unless in conformity with this bylaw. Any use not permitted by this bylaw shall be deemed prohibited.

Sec. 203: Permitted Uses

Permitted uses are uses that require, at a minimum, administrative review by the Administrative Officer. Some permitted uses shall also be subjected to Site Plan Review by the Planning Commission after public notice and hearing.

Sec. 204: Site Plan Approval

No zoning permit shall be issued by the Administrative Officer for any use or structure requiring site plan approval until the Planning Commission grants such approval. The Commission shall conform to the requirements of 24 VSA, Sec 4416 before acting upon any application, and may impose appropriate conditions and safeguards.

- A. Maximum safety of vehicular circulation and pedestrian between the site and street;

- B. Adequacy of circulation, parking and loading facilities;
- C. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent properties and;
- D. Protecting the utilization of renewable energy resources.

Sec. 205: District Regulations

Permitted Uses	Conditional Uses
1. Accessory use or structure	1. Dwelling, multi-unit
2. Agricultural use	2. Financial institutions
*3 Educational institutions	3. Lodging establishments
*4. Government uses	4. Office or office building
5. Home occupation	5. Recreational facility
*6. Public and/or semi public uses	6. Restaurant
*7. Religious institutions	7. Retail sales
8. Dwelling, single family, and accessory	8. Retail services
9. Dwelling, two family	9. Auto service
10. Sub-division	10. Warehouse
*11. Health Facility	11. Trucking Terminal
**12 . Child Care	12. Recycling Center
* Site plan review required	13. Essential Services
** See Sec. 304 for definition	14. Manufacturing
	15. Conservation easement

Area and Dimensional Requirements

1 acre = 43, 560 sq. ft.

Sec. 205.1 Accessory Dwelling: No bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation and sanitation, provided there is compliance with all the following:

1. The property has functioning waste water capacity
2. The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
3. Applicable setback, coverage and parking requirements specified in the bylaws are met.

Notwithstanding the provisions above, the creation of an accessory dwelling unit will require conditional use approval when one or more of the following is involved:

- A. A new accessory structure, constructed after the enactment of these bylaws,
- B. An increase in the height or floor area of the existing dwelling, or
- C. An increase in the dimensions of the parking area.

Sec. 205.2 Single/Multi/Rental Dwelling

<u>Minimum Area and Dimensional Requirements</u>			
Lot Designation:	A	B	C
Lot Area Minimum (acres)	¾	1	2
Lot Frontage Minimum (ft)	100	100	100
Front Yard Minimum (ft)	40	40	40*
Rear Yard Minimum (ft)	25	25	25*
Side Yard Minimum (ft)	25	25	25*
Building Height Maximum (ft)	35	35	35**
Parking (unit)	2	2	2

Footnotes: Lot Designation Key
A=Public water AND sewer available
B=Public water OR sewer available
C=On site water AND sewer

*See Sec. 205.6: Projection into Required Yards.
**See Sec. 205.7: Building Height Regulation. Exemption

Sec. 205.3 Retail Sales and Services

<u>Minimum Area and Dimensional Requirements</u>			
Lot Designation	A	B	C
Lot Area Minimum (acres)	¾	1	2
Lot Frontage Minimum (ft)	150	150	150
Front Yard Minimum (ft)	40	40	40
Rear Yard Minimum (ft)	40	40	40
Side Yard Minimum (ft)	40	40	40
Building Height Maximum (ft)	35	35	35**

Footnotes: Lot Designation Key
A=Public water AND sewer available;
B=Public water OR sewer available;
C=On site water AND sewer.
**See Sec. 205.7: Buuilding Height Regulation, Exemption

Sec 205.4 Manufacturing

<u>Minimum Area and Dimensional Requirements</u>	
Lot Designation:	A/B/C
Lot Area Minimum (acres)	2
Lot Frontage Minimum (ft)	200
Front Yard Minimum (ft)	100
Rear Yard Minimum (ft)	100

Side Yard Minimum (ft)	100
Building Height Maximum (ft)	50**
Parking (per employee)	1

Footnotes: Lot Designation Key

A=Public water AND sewer available;

B=Public water OR sewer available;

C=On site water AND sewer.

**See Sec. 205.7: Building Height Regulation, Exemption

Sec. 205.5 Utility Sheds -	Maximum Square Footage	200ft
	Front Yard Minimum	5ft
	Rear Yard Minimum	5ft
	Side Yard Minimum	5ft
	Building Height Maximum	12ft

Sec. 205.6: Projection into Required Yards

Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

Sec. 205.7: Building Height Regulation, Exemption

The maximum building height requirement set forth in Sec. 205 shall not apply to any building used for agricultural purposes.

Sec. 205.8: The Plan for a Municipality

No provision of this bylaw may have the effect of excluding from the municipality housing to meet the needs of the population as determined in accordance with 24 VSA, sec. 4382(c).

Sec. 206: Conditional Uses and Conditional Use Review

Conditionally approved uses are uses that require, following administrative review by the Administrative Officer, referral to the Board of Adjustment for Conditional Use Review after public notice and hearing.

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires a conditional pennit until the Board of Adjustment grants such approval. In considering its action, the Board of Adjustment shall make findings on general and specific standards, hold hearings and attach conditions as provided for in 24 VSA, Sec. 4414(3).

The proposed conditional use shall not adversely affect:

Sec. 206.1 The capacity of existing or planned community facilities.

Sec. 206.2 The character of the area affected as defined by the purpose or purposes of the zoning district in which the project is located and specifically stated policies and standards of the municipality.

Sec. 206.3 Traffic of roads and highways in the vicinity.

Sec. 206.4 Bylaw and Ordinances then in effect.

Sec. 206.5 Utilization of renewable energy resources.

Sec. 206.6 The general standards set forth in this section may be supplemented by more specific criteria, including requirements with respect to any of the following:

- A. Minimum lot size.
- B. Distance from adjacent or nearby uses.
- C. Criteria adopted relating to site plan review pursuant to Sec. 4416 of this title.
- D. Controlling the location and number of vehicular access points to the property.
- E. Increasing the number of off-street parking or loading spaces required.
- F. Limiting the number, location and size of signs.
- G. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
- H. Specifying a specific time limit for construction, alteration or enlargement of a structure to house a conditional use.
- I. Requiring that any future enlargement or alteration of the use be reviewed by the Board of Adjustment to permit the specifying of new conditions.
- J. Any other standards and factors that the bylaws may include.

Sec. 206.7: Changes in Use

A change in use, expansion or contraction of land area, or alteration of structures or uses which are designated as conditional uses, and are existing prior to the effective date of this bylaw, shall conform to all regulations herein pertaining to conditional uses.

Sec. 206.8: Conservation Development Easement

Criteria provided by Grantee:

- A. Will not create an unreasonable burden on municipality in providing governmental services.
- B. Will not create an unreasonable burden on the educational facilities of municipality.
- C. Produce a Development Plan which includes the following considerations:

1. The impact the easement will have on the growth of the town and region;
2. Primary agricultural soils;
3. Forest and secondary agricultural soils;
4. Available earth resources;

5. Extraction of earth resources;

6. Energy conservation;
7. Private utility services;
8. Public utility services;
9. A study of physical, social and economic development impact of the resources of the town;
10. Rural growth.

ART 111: GENERAL REGULATIONS

Sec. 301: Existing Small Lots

Sec. 301.1 Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

- A. A municipality shall prohibit development of a lot if either of the following applies:
 1. The lot is less than one-eighth acre in area or
 2. The lot has a width or depth dimension of less than 40 feet.
- B. If an existing small lot subsequently comes under common ownership with one or more contiguous lots, the nonconforming lot shall be deemed merged with the contiguous lot. However, a nonconforming lot shall not be deemed merged and may be separately conveyed if all the following apply:
 1. The lots are conveyed in their preexisting, nonconforming configuration.
 2. On the effective date of any bylaw, each lot was developed with a water supply and wastewater disposal system.
 3. At the time of transfer, each water supply and wastewater system is functioning in an acceptable manner.
 4. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a failed system or failed supply as defined in 10 VSA, Chapter 64.
 5. Nothing in this subdivision (2) shall be construed to prohibit a bylaw that is less restrictive of development of existing small lots.

Sec. 302: Frontage on, or Access to, Public Roads

No land development may be permitted which does not have adequate means of access, either frontage on a maintained public road (Class 1, 2, 3) or access by means of a permanent easement or right of way to such a public road. Access easements or

rights-of-way shall not be less than 30 feet in width. Access on a state highway must be permitted by Vermont Agency of Transportation.

Sec. 303: Protection of Home Occupations

No provision of the bylaw shall prevent a person from using a minor portion of the dwelling in which he or she resides and/or an accessory building on the same lot for a home occupation. A person wishing to establish a home occupation shall meet the following guidelines:

- A. The home occupation must be customary in residential areas, subordinate to residential purposes, and shall not change the character of the neighborhood.
- B. The home occupation shall be carried on by the immediate family and necessary non-family employees.
- C. The home occupation shall be conducted wholly within the principal building or accessory building. Exterior storage of goods, materials, equipment or products shall be kept from view.
- D. The home occupation shall not produce levels of noise, smoke, vibration, dust, glare, electrical interference, telecommunication interference, heat or risk of fire beyond those normally present in residential areas.
- E. Traffic generated by the home occupation shall be limited to a level and type which would normally be expected in the neighborhood. F. Parking shall be provided on site.

Sec. 304: Child Care

- A. A "family child care home or facility" as used in this subdivision, means a home or facility where the owner or operator is to be licensed or registered by the State for childcare.
- B. A family child care home serving no more than six full-time children and four part-time children, as defined in subdivision 33 VSA Sec. 4902(3)(A), shall be considered to constitute a permitted use of property.
- C. A family child care facility serving more than six full-time and four part-time children will be subject to conditional use approval.

Sec. 305: Parking

Minimum of 9 feet wide and 20 feet long per vehicle with direct access to street (See Section 205).

Sec. 306: Roads

Sec. 306.1 All roads, driveways and rights-of-way built on private property shall be maintained by the owner.

Sec. 306.2 The construction of any new road or driveway with access to a town road or the alteration of the access to a town road of an existing road or driveway shall require issuance of an access permit by the Road Commissioner and have a minimum width of 20 feet wide at the mouth. 19 VSA, Sec I111.

Sec. 307: Flood Hazard Area Requirements

Sec. 307.1 Lands to Which These Regulations Apply:

These regulations shall apply for development in all areas in the Town of Newport identified as areas of special flood hazard on the current National Flood Insurance Program maps which are hereby adopted by reference and declared to be part of these regulations.

Sec. 307.2 Conditional Use Permit Required:

- A. All development including fill, excavation, grading, erection or placement of structures, substantial improvement of existing structures and storage of equipment and material prescribed by the Town of Newport zoning bylaw are permitted within an area of special flood hazard only upon granting of a conditional use permit by the Board of Adjustment.
- B. Mandatory provisions: All flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement be granted for a flood or other hazard area until after both of the following:
 1. A copy of the application is mailed or delivered by the administrative officer or by the Zoning Board of Adjustment to the Agency of Natural resources.
 2. Either 30 days have elapsed following the mailing or the agency delivers comments on the application.
- C. Adjacent communities and the Vermont Department of Water Resources and Environmental Engineering shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a water course and copies of such notification shall be submitted to the Administrator of the Federal Insurance Administration.

- D. Proposed development shall be reviewed to assure that all necessary permits have been received from those government agencies from which approval is required by Federal or State law.

Sec. 307.3 Base Flood Elevations and Flood Way Limits

- A. Where available, i.e. Zones Al-A30, AE and AH, the base flood elevations and flood way limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of these regulations.
- B. In areas where base flood elevations and flood way limits have not been provided by the National Flood Insurance Program, i.e. Zone A, base flood elevations and flood way information available from State or Federal agencies or other resources, shall be obtained and reasonably utilized to administer the provisions of these regulations.

Sec. 307.4 Development Standards within Area of Special Flood Hazard

- A. All development and structures shall be:
 - 1. Designed to minimize flood damage to the proposed development and to public facilities, utilities and:
 - 2. Designed to provide adequate drainage to reduce exposure to flood hazards.
 - 3. Designed (or modified) and adequately anchored to prevent floatation, collapse or lateral movement of the structure during the occurrence of the base flood.
 - 4. Constructed with materials resistant to flood damage.
 - 5. Constructed by methods and practices that minimize flood damage and 6. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. The flood carrying capacity within any altered or relocated portion of a water course shall be maintained.
- C. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- D. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- E. New and replacement manufactured homes shall be elevated on properly compacted fill such that the top of the fill (the pad) under the entire manufactured home is above the base flood elevation.

- F. Development within the flood way is prohibited unless a registered professional engineer certifies that the proposed development shall not result in any increasing flood levels during the occurrence of the base flood.
- G. The lowest floor, including basement, of all new buildings shall be at or above the base flood elevation.
- H. Existing buildings to be substantially improved for:
 - 1 . Residential purposes shall be modified or elevated to meet the requirements of 307.4(G).
 - 2. Non-residential purposes shall either:
 - a. Meet the requirements of 307.4(G) or
 - b. Be designed to be watertight below the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be flood proofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- I. Salvage yards and storage facilities for floatation materials, chemicals, explosives, flammable liquids or other hazardous or toxic materials are prohibited within the flood way. These facilities may be permitted outside of the flood way, provided the area is filled to at least one foot above the base flood elevation.

Sec. 307.5 Conditional Use Review Procedures for Flood Hazard Development

- A. Upon receiving an application for a conditional use permit under these regulations, the Board of Adjustment shall, prior to rendering a decision therein:
 1. Obtain from the Vermont Department of Water Resources or other state or federal agencies, any available base flood elevation data.
 2. The applicant must provide:
 - a. The elevation (in relation to mean sea level) of the lowest floor, including basement, of new buildings or buildings to be substantially improved;
 - b. Where flood proofing is proposed, the elevation (in relation to mean sea level) to which the building will be flood proofed;
 - c. Plans drawn to scale showing the existing and proposed land contours, buildings, structures, streams, roads and other pertinent physical features;

- d. Base flood elevation data for subdivisions and other proposed development which contain at least 50 lots or 5 acres (whichever is smaller);
- e. Such other information deemed necessary by the Board of Adjustment for determining the suitability of the site for the proposed development;
- f. Posting done by applicant.

B. In reviewing each application, the Zoning Board of Adjustment shall consider:

- 1. The evaluation of the Vermont Department of Water Resources.
- 2. The availability of alternative locations not subject to flooding for the proposed use.
- 3. The susceptibility of the proposed improvement to flood damages.
- 4. The safety of access to the property in times of flood of ordinary and emergency vehicles.
- 5. The potential for damage to the property caused by erosion.
- 6. The danger that materials may be swept onto other lands and cause damage to others.
- 7. Such other factors as are relevant to the purposes of this bylaw.

C. The Board of Adjustment may grant a conditional use permit for development provided:

- 1. All necessary permits are obtained from those government agencies from which approval is required by Federal or State Law;
- 2. The development standards of 307.4 are met or exceeded.

Sec. 307.6 Duties and Responsibilities of the Administrative Officer

The Administrative Officer shall maintain a record of:

- A. All permits issued for the development in areas of special flood hazard.
- B. The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved buildings.
- C. The elevation, in relation to mean sea level, to which buildings have been flood proofed.
- D. All flood proofing certifications required under this regulation.
- E. All variance actions, including justification for their issuance.

Sec. 307.7 Variances shall be granted by the Board of Adjustments only:

- A. In accordance with the provisions of 24 VSA Sec. 4469.
- B. Upon a determination that during the base flood discharge the variance will not result in increased flood levels.

- C. Upon a determination that 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.

Sec. 307.8 Warning of Disclaimer of Liability

These regulations do not imply that land outside the areas of special flood hazard or land uses permitted within such districts will be free from flooding or flood damages. These regulations shall not create liability on the part of the Town of Newport or any official or employee thereof for any flood damages that result from reliance on this bylaw or any administrative decision lawfully made there under.

Sec. 307.9 Referral to State Agencies

In accordance with 24 VSA, Sec 4424(D), no zoning permit for the development of land in certain locations shall be issued by the Administrative Officer without first submitting a report to the Agency of Natural Resources.

Sec. 308 Salvage Yards

Junk, junk motor vehicles and salvage yards as defined in State Statute Title 24, V SA Sec 2241, sub Sec 5, 6 &7, shall not be permitted within the boundaries of the Town of Newport unless the Salvage Yard has been issued a certificate of registration by the Agency of Natural Resources.

Sec. 308.1 Junk and Junk Vehicles on Non-Commercial Property

Sec. 308.1 Definitions.

- a. "Abandon" means to leave without claimed ownership for 30 days or more.
- b. "Abutting property owner" means any person or persons, corporation or other entity that owns, leases, or in any way uses or controls the real property abutting any portion of the property of another.
- c. "Enforcement Officer" any municipal official, police officer, constable, health officer, etc. appointed by the Select board to enforce the provisions of this ordinance. The Enforcement Officer appointed by the Town of Newport Select board shall enforce this Ordinance and may hold any other office in the Town of Newport. Nothing in this Ordinance shall prevent the Enforcement Officer from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce.
- d. "Highway" means any highway, road, street or other public way, regardless of classification.

- e. "Household appliance" means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- f. "Junk" means old or discarded scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof.
- g. "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped or ruined motor vehicle or parts thereof, an unregistered motor home or recreation vehicle not connected to water and/or sewer, or a vehicle other than an on-premises utility vehicle which is allowed to remain unregistered for a period of 90 days from the date of discovery.
- h. "Motor vehicle" means an vehicle propelled or drawn by power other than muscular powers, including trailers. Functional vehicles and equipment used for agricultural and construction operations are excluded from this definition.
- i. "Traveled way" means that portion of a public highway designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, immediately adjacent and contiguous to the traveled portion of the roadway.

Sec 308.2 Requirements.

- A. It shall be unlawful to place, discard or abandon junk or two or more junk motor vehicles in a place where any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.
- B. It shall be unlawful to place, discard or abandon junk or two or more junk motor vehicles upon the land of another with or without the consent of the owner, when any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from the portion of the abutter's land. Any such item so placed, discarded or abandoned is hereby declared to be a public nuisance.

Sec 308.3 Enforcement and Penalties

- A. Upon receiving written notice from the select board to do so, the owner of any junk or junk motor vehicle discovered in violation of Sec 308.2 of this ordinance shall remove the item(s) or vehicle(s) from the view of the traveled way of the highway or town road. Such items shall also be removed from the view of an abutting landowner as seen from the portion of the abutter's land used on a regular basis. If the owner of the junk or junk motor vehicle does not remove the items within 30 days from the date of mailing of the written notice by the select board, the owner will be found to be in violation.

B. Additional Provisions for Junk Motor Vehicles.

1. If the owner of the land on which a junk motor vehicle is discovered in Violation of Sec 308.2 of this ordinance does not hold title or disclaims Title to the vehicle, and the true owner of the vehicle is known or can be ascertained, the true owner shall move or dispose of the vehicle upon receiving written notice from the select board.

2. If the last known registered owner fails or refuses to reclaim the vehicle upon receiving said written notice, or if after an investigation the owner cannot be ascertained, the select board may notify the appropriate State agency and request that action be taken pursuant to 24 V.S.A. Section 2272.

C. A violation of this ordinance shall be a civil matter enforced in the Vermont Judicial Bureau in accordance with the provisions of 24 V.S.A. Sections 1974a and 1977 et seq. A municipal ticket will be issued 30 days after written notification of violation is mailed by the select board if the violation has not been corrected in accordance with this ordinance. A civil penalty of not more than \$500.00 may be imposed for a violation of this civil ordinance. The penalty for the first offense shall be \$100.00 and the waiver fee shall be \$50.00, the penalty for a second offense shall be \$250.00, and the waiver fee shall be \$125.00, the penalty for the third offense and an subsequent offense shall be \$500.00 and the waiver fee shall be \$300.00. Each day that the violation continues shall constitute a separate violation of this ordinance.

D. Any law enforcement officer or health officer designated by the town shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

E. A violation of this ordinance may lead to superior court action seeking injunctive relief and civil penalties pursuant to 23 V.S.A. section 1974a.

Sec 308.4 Severability. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Sec 308.5 Effective Date. This ordinance shall become effective 60 days after its adoption by the town select board. If a petition is filed under 24 .S.A. Section 1973, that statute shall govern the taking effect of this ordinance.

Sec. 309: Destroyed or Burned or Collapsed Buildings

A. Within one year after work on an excavation for a building has begun or within one year after a permanent or temporary building has been burned, destroyed or

demolished, all structural materials shall be removed from the site and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

B. If the foundation or cement slab is salvageable, the foundation or cement slab may remain.

C. An owner or occupant may apply for a permit from the Administrative Officer to extend this deadline by not more than one year for reasons beyond the applicant's control, such as insurance purposes.

D. Enforcement of this section will be done by the Administrative Officer.

Sec. 310: Planned Unit Development

With the approval of a subdivision plan, the Planning Commission is hereby empowered to vary certain zoning regulations under the criteria and procedures established in 24 VSA, sec. 4417.

Proposals for planned unit development shall be submitted to the Planning Commission. The material accompanying the proposal shall contain the following:

Sec. 310.1 Required site plan shall depict all buildings, parking areas and landscaping at a scale sufficient to permit the study of all elements of the plan. All utilities shall also be shown and described. Typical elevations and floor plans may also be required. In addition, the site plans shall show the adjacent building outlines and other outstanding features within 200 feet of the site.

Sec. 310.2 The purpose (conditions) of planned unit development shall be to encourage a development which will result in:

- A. A choice in the type of environments and living units available to the public and residential land uses so that development will be permanent and long-term asset to the town.
- B. Open space and recreation areas.
- C. A pattern of development which preserves trees, outstanding natural topographic and geologic features and prevents soil erosion.
- D. An efficient use of land resulting in small networks of utilities and streets.
- E. An environment in harmony with surrounding development.
- F. A more desirable environment than would be possible through the strict application of other sections of this bylaw.

Sec. 310.3 Density may vary within the development but the total permitted number of dwelling units shall not exceed 25% more than the number which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots in conformance with the zoning regulations for the district in which the land is situated.

Sec. 310.4 In a planned unit development dwelling units may be multi-family. In a planned unit development in a residential district, commercial, educational and public facilities may be allowed which are designed to serve the development and the area around the development.

Sec. 310.5 A planned unit development shall comply with the following standards:

- A. Shall be at least ten contiguous acres.
- B. Off-lot water and sewer may be required if over six residential units.
- C. At least 50% of the development shall be open space for public and/or common usage. The regulations for control and maintenance of this open space shall be approved by the Planning Commission. This may be waived by the Planning Commission for commercial and industrial planned unit developments providing adequate screening and landscaping is provided.

Sec. 310.6 The Planning Commission may prescribe, from time to time, rules and regulations to supplement the standards and conditions set forth in this zoning bylaw for planned unit development provided the hearing after public notice as required by 24 VSA, Sec. 4417, prior to the establishment of any supplementary rules and regulations for planned unit development.

Sec. 311: Agriculture and Forestry

Sec. 311.1 Nothing contained herein shall restrict accepted agricultural or farming practices or accepted silvicultural practices, including the construction of farm structures, as such practices are defined by the Commissioner of Agriculture, Food and Markets or the Commissioner of Forest, Parks and Recreation, respectively, under 10 VSDA, Sec. 1021(f) and 1259(f) and 6 VSA, Sec. 4810.

Sec. 312: Group Home Provision

A residential care home or group home, to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 V.S.A. Section 4501, shall be considered to constitute a permitted use of a single unit dwelling, except that no such home shall be so considered if it locates within 1,000 feet of another existing or permitted such home.

A residential care home or group home, to be operated under state licensing or registration, serving nine or more who have a handicap or disability as defined in 9 V.S.A. Section 4501, shall be reviewed as a multi-unit dwelling and shall be subject to conditional use review.

Sec. 313: Limitation of Bylaw

The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- (1) State-or community-owned and operated institutions and facilities.
- (2) Public and private schools and other educational institutions certified by the state department of education.
- (3) Churches and other places of worship, convents, and parish houses.
- (4) Public and private hospitals.
- (5) Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- (6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A Section 6606a.
- (7) Communication towers and alternative energy structures.

Sec 314: Other Land Use and Relevant Regulations

State and federal government may regulate certain aspects of land use; compliance with this zoning bylaw in no way implies compliance with such state or federal regulations.

ART IV: NON-CONFORMING USES and STRUCTURES

Any lawful structure, lawful use of any structure or land, or subdivision of land existing at the time of the enactment of these regulations may be continued, although such a structure or use does not conform with the provisions of these regulations, provided the conditions in this section are met.

Sec. 404: Subject to Conditional Use Approval by the Zoning Board of Adjustment

The following may be permitted:

1. Any nonconforming use of a structure or land may be altered or expanded, not exceeding 25% of its size as it existed upon the effective date of this bylaw.

However, a nonconforming use shall not be re-established after being abandoned or discontinued for a period of 18 months, or after being changed to a conforming use, regardless of evidence of intent to re-establish such use.

2. Any nonconforming structures may be altered or expanded, providing such action does not increase the degree of nonconformance. In the event a nonconforming structure is at least 75% damaged or destroyed by fire, collapse or Act of God, it may be rebuilt only in compliance with this bylaw. The Zoning Board of Adjustment may grant a waiver from this in consideration of remaining features such as foundation, water and sewage systems, underground utilities, etc.

3. Any alteration or expansion of a nonconforming use or nonconforming structure for the sole purpose of compliance with environmental, safety, health or energy codes, laws or regulations.

4. No permit is required for retrofitting a building for ADA accessibility.

ART V: ADMINISTRATION AND ENFORCEMENT

Sec. 501: Administrative Officer

The Legislative Body shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of Three (3) years in accordance with the Act 4448. The Legislative Body may remove an Administrative Officer for cause at any time after consulting with the Planning Commission.

An acting Administrative Officer may be appointed by the Selectboard, from nominations submitted by the Planning Commission, who shall have the same duties and responsibilities of the Administrative Officer in the Administrative Officer's absence, or if the Administrative Officer has a conflict of interest. In the event an acting Administrative Officer is appointed, the Selectboard shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

Sec. 501.1 Zoning Permits

The Administrative Officer will be in charge of the Administrative enforcement of the junk and junk vehicles on Non-Commercial Property Sec 308.1.

- (a) Within any municipality in which any bylaws have been adopted:
 - (1) No land development may be commenced within the area affected by the bylaws without a permit issued by the Administrative Officer. No permit may be issued by the Administrative Officer except in conformance with the bylaws.
 - (2) No permit issued pursuant to this section shall take effect until the time for appeal in section 4465 of this title has passed, or in the event that a notice of appeal is properly filed, no such pennit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete and the time for taking an appeal to the environmental court has passed without an appeal being taken. If an appeal is taken to the environmental court, the permit shall not take effect until the environmental court rules in accordance with 10 V.S.A. 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.
- (b) Each permit issued under this section shall contain a statement of the period of time within which an appeal may be taken and shall require posting of a notice of permit on a form prescribed by the municipality within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal in section 4465 of this title has passed. Within three days following the issuance of a pennit, the Administrative Officer shall:
 - (1) Deliver a copy of the permit to the listers of the municipality; and
 - (2) Post a copy of the permit in at least one public place in the municipality until the expiration of 15 days from the date of issuance of the permit.
- (c)(l) Within 30 days after a municipal land use pennit has been issued or within 30 days of the issuance of any notice of violation, the appropriate municipal official shall: (A) deliver the original or a legible copy of the municipal land use permit or notice of violation or a notice of municipal land use permit to the town clerk for recording and (B) file a copy of that municipal land use permit in the offices of the municipality in a location where all municipal land use permits shall be kept.
- (2) The municipal officer may charge the applicant for the cost of the recording fees as required by law.

Sec. 502: Penalties

The commencement or continuation of any development that does not meet the requirements of these regulations shall constitute a violation. All violations shall be pursued in accordance with the Act (Sections 4451, 4452). Each day that a violation continues shall constitute a separate offense. The Administrative Officer shall institute, in the name of the Town of Newport, any appropriate action, injunction or other

proceeding to enforce the provisions of these regulations. All fines imposed and collected shall be paid over to the municipality.

- (a) Any person who violates any bylaw after it has been adopted under this chapter or who violates a comparable ordinance or regulation adopted under prior enabling laws shall be fined not more than \$100.00 for each offense. No action may be brought under this section unless the alleged offender has had at least seven days' warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation of the bylaw or ordinance after the seven-day notice period and within the next succeeding 12 months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. In default of payment of the fine, the person, the members of any partnership, or the principal officers of the corporation shall each pay double the amount of the fine. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of bylaws shall be paid over to the municipality whose bylaw has been violated.

Sec. 503: Planning Commission

The Planning Commission shall consist of not less than five (5) or more than seven (7) members elected by the Town in accordance with 24 V.S.A sections 4321-4323. At least a majority of members shall be residents of the municipality. Any member of the Planning Commission may be removed at any time by a unanimous vote of the Legislative Body. The Planning Commission shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under 24 V.S.A section 4461 (a) and Vermont's Open Meeting Law.

The Planning Commission shall have the following duties regarding this bylaw, in accordance with 24 V.S.A. section 4441 :

- A. to prepare proposed amendments to this bylaw, and consider proposed amendments submitted by others, including amendments supported by a petition signed by at least five percent of the voters of the Town of Newport.
- B. to prepare and approve written reports on any proposed amendment to this bylaw; and
- C. to hold one or more warned public hearings on proposed amendments to these regulations, prior to submission of a proposed amendment and written report to the Selectboard.

The Planning Commission shall have the following responsibilities:

- D. Site plan approval,
- E. Plan residential developments

Sec. 504: Board of Adjustment

The Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Legislative Body for specified terms in accordance with the Act {Section 4460(b) and (c)}. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board of Adjustment shall consist of not less than three (3) nor more than nine (9) members appointed by the Legislative Body for specified terms in accordance with the Act {Section 4460(b) and (c)}. The Legislative Body also may appoint alternates, for specified terms, to serve on the Board in situations when one or more members of the Board are disqualified or otherwise unable to serve. Any member of the Board of Adjustment may be removed for cause by the Legislative Body upon written charges and after public hearing.

The Board shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under the Act {Section 4461 (a)} and Vermont's Open Meeting Law. The Board shall have all powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- A. Appeals from any decision, act or failure to act by the Administrative Officer, Section 505 of this bylaw.
- B. Associated Variance Requests, Section 505.1 of this bylaw.
- C. Applications for Conditional Use Approval, Section 505 of this bylaw.
- D. Request for Waivers from one or more Dimensional Standards, Section 505.2 of this bylaw.

Sec. 505: Appeal Process

An interested person may appeal any decision or act taken by the Administrative Officer, in any municipality, by filing a written notice of appeal with the Town Clerk within 15 days of such decision.

The definition of an interested person under the Act {Section 4465(b)} includes the following:

- A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case
- The Town of Newport or any adjoining municipality
- A person owning or occupying property in the immediate neighborhood of a property which is the subject of a decision or act taken under these regulations, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes or terms of the plan or bylaw of that municipality.
- Any ten (10) voters or property owners within the municipality who, by signed petition to the Zoning Board of Adjustment, allege that any relief requested by a person under this section, if granted, will not be in compliance with the policies, purposes or terms of the plan or regulations of the municipality
- Appeals from any decision, act or failure to act by the Administrative Officer, and any associated variance requests
- Application for conditional use approval

Sec. 505.1 Variances

The Board of Adjustment shall hear and decide requests for variances in accordance with 24 V.S.A. Section 4469(a) and appeal procedures under section 505.1 of this bylaw. In granting a variance, the Board of Adjustment may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Board of Adjustment may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;
2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;

3. The unnecessary hardship has not been created by the appellant;
4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and
5. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Sec. 505.2 Waivers

(A) A bylaw may allow a municipality to grant waivers to reduce dimensional requirements, in accordance with specific standards that shall be in conformance with the plan and the goals set forth in Title 24, section 4302. These standards may:

1. Allow mitigation through design, screening, or other remedy; Allow waivers for structures providing for disability accessibility, fire safety, and other requirements of law; and
2. Provide for energy conservation and renewable energy structures.

(B) If waivers from dimensional requirements are provided, the bylaws shall specify the process by which these waivers may be granted and appealed.

Sec. 505.3 Appeal to Environmental Court

In accordance with 24 V.S.A. section 4471, an interested person who has offered oral or written testimony in a hearing of the Planning Commission or Board of Adjustment may appeal a decision within 30 days of such decision, to the Vermont Environmental Court.

The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Court and by mailing a copy to the Zoning Board of Authority, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days.

Upon receipt of the list of interested persons, the appellant shall, by certified mail.

Provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Section 506: Public Notice

Any requirement of public notice required by the bylaw, whether or not required by any provision of 24 V.S.A, Chapter 1 1 7, and whether applicable to the Board of Adjustment or the Planning Commission, shall be given by the publication and posting of a public hearing notice as required by 24 V.S.A. Section 4464.

(a) Notice procedures. All development review applications before an appropriate municipal panel under procedures set forth in this chapter shall require notice as follows.

(1) A warned public hearing shall be required for conditional use review, variances, administrative officer appeals, and final plat review for subdivisions. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:

(A) Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in the municipality affected.

(B) Posting of the same information in three or more public places within the municipality in conformance with location requirements of 1 V.S.A. 312(c)(2), including posting within view from the public right-of-way most nearly adjacent to the property for which an application is made.

(C) Written notification to the applicant and to owners of all properties adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

(2) Public notice for hearings on all other types of development review, including site plan review, shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:

(A) Posting of the date, place, and purpose of the hearing in three or more public places within the municipality in conformance with the time and location requirements of 1 V.S.A.312(c)

(B) Written notification to the applicant and to the owners of all properties adjoining the property subject to development, including the owners of properties which would be contiguous to the property subject to development but for the interposition of a highway or other public right-of-way and, in any situation in which a

variance is sought regarding setbacks from a state highway, also including written notification to the secretary of transportation. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

(3) The applicant may be required to bear the cost of the public warning and the cost and responsibility of notification of adjoining landowners. The applicant may be required to demonstrate proof of delivery to adjoining landowners either by certified mail, return receipt requested, or by written notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

(4) No defect in the form or substance of any requirements in subdivision (1) or (2) of this subsection shall invalidate the action of the appropriate municipal panel where reasonable efforts are made to provide adequate posting and notice. However, the action shall be invalid when the defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental court or by the applicable municipal panel itself, the action shall be remanded to the applicable municipal panel to provide new posting and notice, hold a new hearing, and take a new action.

ART VI: DEFINITIONS

For the purpose of this bylaw, certain terms or words used herein shall be interpreted as follows:

Sec. 601: Word Definitions

The word PERSON includes an individual, a firm, association, organization, partnership, trust, company or corporation. The present tense includes the future tense, the singular includes the plural and the plural includes the singular.

The word SHALL is mandatory, the word MAY is permissive.

The words USED or OCCUPIED include the words INTENDED, DESIGNED, ARRANGED TO BE USED OR OCCUPIED.

The word USED includes the words PLOT and PARCEL.

Sec. 602: Term Definitions

Accessory Use or Structure: A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principle use of the lot.

Accessory Dwelling: An accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation.

Affordable Housing: Inclusionary Zoning: In order to provide affordable housing, bylaws may require that a certain percentage of housing units in a proposed subdivision or planned unit development meets defined affordability standards, which may include lower income limits than contained in the definition of "affordable housing" in subsection 4303(1) of this title and may contain different affordable percentages than contained in the definition of "affordable housing development" in subsection 4303 (2) of this title. These provisions, at a minimum, shall comply with all the following:

- A. Be in conformance with specific policies of the housing element of the municipal plan.
- B. Be determined from an analysis of the need for affordable rental and sale housing units in the community.
- C. Include development incentives that contribute to the economic feasibility of providing affordable housing units, such as density bonuses, reductions or waivers of minimum lot, dimensional or parking requirements, reductions or waivers of applicable fees, or reductions or waivers of required public or nonpublic improvements.
- D. Require, through conditions of approval, that once affordable housing is built, its availability will be maintained through measures that establish income qualifications for renters or purchasers, promote affirmative marketing and regulate the price, rent and resale price of affordable units for a time period specified in the bylaws.

Agricultural Use: The raising of livestock and/or crops, including structures located thereon used for the storage or sale of agricultural products raised wholly or substantially on the property.

Area of Shallow Flooding: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard: Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in a given year. The area may be designated as Zone A on the FIRM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, Al-A30, AE or A99.

Auto Service: Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

Base Flood: Means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement: Any area of the building having its floor sub grade (below ground level on three or more sides).

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

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 porches, whether enclosed or unenclosed, but does not include steps.

Building Rear Line. Line parallel to the rear lot line transecting that point in the building face which is closest to the rear lot line. This line includes porches, whether enclosed or unenclosed, but does not include steps.

Development: Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural, alteration, relocation or enlargement of any building or other structure or of any mining, excavation or landfill and any change in the use of the building or other structure, land or extension of use of land.

Dwellings Multi-Units: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number dwelling units provided.

Dwelling. Single Family: A detached residential dwelling unit designed for and occupied by one family only.

Dwelling, Two Family: A residential building designed for or occupied by two families living independently of each other in individual dwelling units.

DwellingUnit: One or more rooms constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities. It shall include prefabricated modular units but shall not include motels, hotels or similar structures.

Easement: Any privilege or right which a person has in the land of another.

Educational Institution: Any building or part thereof which is designed, constructed or used for education in any branch of knowledge.

Essential Services: The erection, construction, alteration or maintenance of underground surface or overhead electrical, gas, steam, water and sewage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public safety.

Family: A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit. For purposes of this bylaw, "family" does not include any society, club, or like organization.

Financial Institutions: Establishments such as, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, security exchanges and commodity exchanges.

Flood Hazard Boundary Map (FHBM): Means an official map of a community, issued by the Administrator, where the boundaries of the flood, mud slide (i.e. mud flow) relate erosion areas having special hazards have been designated as Zones A, M and/or E.

Flood Insurance Rate Map (FIRM): Means an official map of a community in which the Administrator has delineated both the special hazard area and the risk premium applicable to the community.

Flood Insurance Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Proofing: Any combination of structural and nonstructural additions, change or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood Way: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.Group Home: Any residential facility operating under a license or registration granted or recognized by a state agency, that serves not more than eight unrelated persons, who have a handicap or disability as defined in 9 V.S.A. section 4501, and who live together as a single housekeeping unit. In addition to room, board and supervision, residents of a group home may receive other services at the group home meeting their health, developmental or educational needs.

Government Uses: Usage of agencies and departments of local, county, state and federal government.

Habitable Area: Any finished area in a dwelling.

Health Facilities: Establishments primarily engaged in furnishing medical, surgical or other health related services to individual, including hospitals, clinics, the offices of physicians, dentists and other health practitioners, medical and dental laboratories, and out-patient care facilities.

Home Occupation: Accessory use of a service character conducted within a dwelling by the residents thereof, which is clearly secondary in nature to the use of the dwelling for living purposes and does not change the character thereof.

Lodging Establishment: Any structure used to provide sleeping quarters to transients. This shall include, but not limited to, boarding houses, inns, hotels, motels, resorts and tourist homes.

Lot: A lot is a parcel of land occupied by only one main building and the accessory buildings or uses customarily incidental to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, area and to provide such yards and other open spaces as herein provided. Such lot shall have frontage on an improved public street or other means of access and may consist of:

- A. A single lot of record;
- B. A portion of a lot of record;
- C. A combination of complete lots of record, or complete lots of record and portions of lots of record;
- D. A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this bylaw.

Lot Frontage: Distance measured across the width of the lot at the building front line, or the proposed building front line.

Lot Line Front. Any lot line separating a public or private right-of-way from the property abutting the right-of-way. The front line for parcels not having frontage on a public or private right-of-way shall be considered to be that lot line most nearly parallel to the nearest right-of-way.

Lot Line Rear: That lot line most distant from the front lot line. There is no rear lot line for a corner lot.

Lot Line Side: A lot line which is neither a front lot line nor a rear lot line.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Town Clerk, or a lot or parcel described by metes and bounds, the description of which has been recorded.

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 of Sec. 307.

Mobile Home: A structure or type of manufactured home that is built in a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation, includes plumbing, heating, cooling and electrical systems and is:

- Transportable in one or more sections and
- At least eight feet wide or forty feet long or when erected has at least 320 square feet or if the structure was constructed prior to June 15, 1976, at least eight feet wide or 32 feet long and
- Any structure that meets all the requirements of this subdivision except for size and for which the manufacturer voluntarily files a certification required by the U.S. Department of Housing.

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products and the blending of materials such as lubricating oils, plastics, resins or liquors.

Mean Sea Level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (DGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Nonconforming Lots or Parcels (Statutory Definition): Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the Administrative Officer, 24 VSA Sec. 4303(13).

Nonconforming Structure (Statutory Definition): A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances and regulations prior to the enactment of present bylaws, including a structure improperly authorized as a result of error by the Administrative Officer, 24 VSA Sec. 4303(4).

Nonconforming Use (Statutory Definition): Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Administrative Officer, 24 VSA Sec. 4303(15).

Office or Office Building: Place where the business of a commercial, service or professional organization is transacted.

Parking: Off-street used for the temporary location of one licensed motor vehicle, which is at least 9 feet wide and 20 feet long and having direct access to the street or alley.

Planned Unit Development: An area of minimum contiguous size, as specified by Sec. 310, to be planned and developed as a single entity containing one or more clusters of residential, commercial, industrial or public buildings as approved by the Planning Commission under Sec. 310 of this bylaw.

Public and/or Semi-Public Uses: Includes auditorium, theater, public hall, school hall, meeting hall.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreational Vehicles: Any vehicle so constructed as to permit its being used as a conveyance on the public streets and highways and occupancy thereof as a dwelling or sleeping space for one or more persons. Such vehicles may or may not include a toilet and bathtub or shower and cannot be readily connected to a community sewer or water service. A recreational vehicle under this local law includes travel trailers, motor homes, truck campers and vehicles converted to sleeping facilities. This definition shall not include mobile homes and/or any other structure that nomially constitutes a permanent dwelling unit. This definition does include uses to which such vehicle might be put.

Recycling Center: A facility for the storage, processing and sale or disposal of solid waste.

Religious Institutions: A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of belief are held.

Restaurant: An establishment where food and drink is prepared, served and consumed primarily within the principal building or on the premises.

Retail Sales: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retail Services: Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, education and social services, museums and galleries.

Road Line: That line separating the right-of-way of a public road, as dedicated by a deed of record, from the abutting properties. Where the width of the right-of-way has not been established, the road line shall be considered to be twenty-five feet (3 rods) from the centerline of the traveled portion of the right-of-way.

Road Public: Publicly owned and maintained right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Salvage Yard: Land or building used for the collection, wrecking, dismantling, storage, salvaging and/or sale of machinery, machinery parts or vehicles which are not in operating condition.

Structure: An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, sign, wall or fence, except a wall or fence on an operating farm.

Sub-Division: The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease.

Substantial Commencement: Visible signs of activity on new construction of a new structure or repair of a damaged structure, including the commitment of resources, engineering services, and materials to a project, such as the pouring of a foundation, the completion of a frame, or the delivery of all required building materials to the construction site.

Travel Trailer Camp: A plot of ground on which two or more travel trailers, occupied for sleeping purposes, are located subject to the payment of a fee.

Trucking Terminal: An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

Utility Shed: An unattached building used for storage.

Warehouse: A building used primarily for the storage of goods and materials.

Yard Front: Yard between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front yard shall be measured from the center line of the road to the front line of the building.

Yard Rear: Yard between the rear lot line and rear line of a building extended to the side lot lines of the lot. The depth of the rear yard shall be measured from the rear lot line to the rear line of the building.

Yard Side: Yard between the principal building or accessory building and a side lot line and extending through from the front yard to the rear yard.

ART VII: AMENDMENTS. SEPARABILITY. EFFECTIVE DATES

Sec. 701: Amendments

This bylaw may be amended according to the requirements and procedures established in 24 VSA, Sections 4401 and 4402.

Sec. 702: Separability

The invalidity of any provision of this bylaw shall not invalidate any other part.

Sec. 703: Effective Date

This bylaw shall take effect in accordance with the voting and other procedures contained in Sec. 4442(c) of the Act.

Sec. 704: Repeal

Upon the date of adoption of this bylaw, the former To ^{xvn} of Newport Zoning Bylaw, adopted February 2, 2006, along with any subsequent amendments, is hereby declared repealed and shall have no further force of effect.