

**ZONING BYLAWS**  
**TOWN OF NEWPORT, VERMONT**

ADOPTED MARCH 6, 1986

ADOPTED FEBRUARY 2, 2006

# TOWN OF NEWPORT, VERMONT ZONING BYLAW

## TABLE OF CONTENTS

ART 1: ENACTMENT AND INTENT	3
Sec. 101: Enactment	3
Sec. 102: Intent	3
ART 11: ESTABLISHMENT OF REGULATIONS	3
Sec. 201: Classes of Districts	3
Sec. 202: Application of Bylaw Regulations	3
Sec. 203: Permitted Uses	3
Sec. 204: Conditional Uses	3
Sec. 205: Site Plan Approval	5
Sec. 206: District Regulations	5
ART III: GENERAL REGULATIONS	7
Sec. 301: Existing Small Lots	7
Sec. 302: Frontage on, or Access to, Public Roads or Waters	7
Sec. 303: Protection of Home Occupations	8
Sec. 304: Child Care	8
Sec. 305: Parking	8
Sec. 306: Roads	8
Sec. 307: Flood Hazard Area Requirements	9
Sec. 309: Building Height Regulation	11
Sec. 310: Junk Yards	11
Sec. 311: Destroyed or Burned or Collapsed Buildings	11
Sec. 312: Planned Unit Development	11
Sec. 313: Projection into Required Yards	12
Sec. 314: Agriculture and Forestry	12
ART V: NON-CONFORMING USES	13
Sec. 404: Subject to Conditional Use	13
ART V: ADMINISTRATION AND ENFORCEMENT	13
Sec. 501: Administrative Officer	13
Sec. 502: Penalties	14
Sec. 503: Board of Adjustment	14
Sec. 504: Conditional Use Review Procedure	14
Sec. 505: Referral to State Agencies	15
ART VI: DEFINITIONS	16
Sec. 601: Word Definitions	16
Sec. 602: Term Definitions	16
ART VII: AMENDMENTS, SEPARABILITY, EFFECTIVE DATE	22
Sec. 701: Amendments	22
Sec. 702: Separability	22
Sec. 703: Effective Date	22
Sec. 704: Repeal	22

## **TOWN OF NEWPORT, VERMONT ZONING BYLAW**

### **ART 1: ENACTMENT AND INTENT**

#### **Sec. 101: Enactment**

In accordance with 24 VSA, Sec 43 0 1; 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 those uses that are allowed providing the standards established by this bylaw are met. Unless a variance or other special action by the Board of Adjustment or Planning Commission is required, the necessary permit may be issued by the Administrative Officer.

#### **Sec. 204: Conditional Uses**

No zoning permit shall be issued by the Administrative Officer for any use of structure which requires a conditional use permit 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 4414(3).

The proposed conditional use shall not adversely affect:

- 204.1 The capacity of existing or planned community facilities;
- 204.2 The character of the area affected as defined by the purpose or purposes of the zoning district with which the project is located and specifically stated policies, and standards of the municipal.
- 204.3 Traffic of roads and highways in the vicinity;
- 204.4 Bylaw and Ordinances then in effect.
- 204.5 Utilization of renewable energy resources.
- 204.6 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. Performance standards, as under subdivision (6) of these section.
  - D. Criteria adopted relating to site plan review pursuant to section 4416 of this title.
  - E. Controlling the location and number of vehicular access points to the property.
  - F. Increasing the number of off-street parking or loading spaces required.
  - G. Limiting the number, location and size of signs.
  - H. Requiring suitable landscaping where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.
  - I. Specifying a specific time limit for construction, alteration or enlargement of a structure to house a conditional use.
  - J. Requiring that any future enlargement or alteration of the use be reviewed by the Board of Adjustment to permit the specifying of new conditions.
  - K. Any other standards and factors that the bylaws may include.
- 204.7 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.
- 204.8 Conservation development easement criteria provided by Grantee:
  - A. will not create an unreasonable burden on the municipality in providing governmental service,
  - 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 the physical, social and economic development impact of the resources of the town.
    - 10. Rural growth.

Sec. 205: 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. Harmonious relationship between proposed uses and existing adjacent uses;
- B. Maximum safety of vehicular circulation and pedestrian between the site and street;
- C. Adequacy of circulation, parking and loading facilities;
- D. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent properties and;
- E. Protecting the utilization of renewable energy resources.

Sec. 206: District Regulations

Permitted uses

- 1. Accessory use or structure
- 2. Agricultural use
- \*3. Educational institutions
- \*4. Government Uses
- 5. Home occupation
- \*6. Public &/or semi public uses
- \*7. Religious institutions
- 8. Dwelling, single family, and accessory
- 9. Dwelling, two family
- 10. Sub-division
- \*11. Health Facility
- \*12. Child Care

\*Site plan review required

\*\*See Sec. 304 for definition

Conditional Uses

- 1. Dwelling, multi-unit
- 2. Financial institutions
- 3. Lodging establishments
- 4. Office or office building
- 5. Recreational facility
- 6. Restaurant
- 7. Retail sales
- 8. Retail services
- 9. Auto service
- 10. Warehouse
- 11. Trucking terminal
- 12. Recycling center
- 13. Essential services
- 14. Manufacturing
- 15. Conservation easement

Area and Dimensional Requirements

1 acre = 43,560 sq. ft.

206.1 Single/Multi/Rental Dwelling

Minimum Area and Dimensional Requirements

Lot Designation:	A	B	C
Lot Area Minimum (acres)	3/4	1	2
Lot Frontage Minimum (ft)	100	125	150
Front Yard Minimum (ft)	40	40	40
Rear Yard Minimum (ft)	25	25	25
Side Yard Minimum (ft)	25	25	25
Building Height Maximum	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.

206.2 Retail sales and service

Minimum Area and Dimensional Requirements

Lot Designation:	A	B	C
Lot Area Minimum (acres)	3/4	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
Parking (per 211 sq. ft. floor area)	1	1	1

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

206.3 Manufacturing/Industrial

Minimum Area and Dimensional Requirements

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.

206.4 Utility Sheds	Maximum Square Footage	200 ft.
	Front Yard Minimum	5 ft.
	Rear Yard Minimum	5 ft.
	Side Yard Minimum	5 ft.
	Building Height Maximum	8 ft.

206.5 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)

206.6 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.

### **ART III: GENERAL REGULATIONS**

#### **301: Existing Small Lots**

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 may 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. The bylaw may provide that 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 V. S.A. chapter 64.

D. 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 or Waters

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) Site Plan Approval of the bylaw, access by means of a permanent easement or right of way to such a public road, or to public waters. Access easements or rights-of-way shall not be less than 20 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 are permitted.
- C. The home occupation shall be conducted wholly within the principal building or accessory building and 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 all applicable municipal bylaws.

Sec. 305: Parking

Minimum of 9 feet wide and 20 feet long per vehicle with direct access to street per alley. (See Section 206)

Sec. 306: Roads

- 306.1 All roads, driveways, and rights of way built on private property shall be maintained by the owner.
- 306.2 The construction of any new road with access to a town road or the alteration of the access to a town road of an existing road shall require issuance of an access permit by the Road Commissioner. 19 VSA, Sec II 11.



## Sec 307: Flood Hazard Area Requirements

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.

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 the 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 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 governmental agencies from which approval is required by Federal or State law.

307.3 Base Flood Elevations and Flood Way Limits

- A. Where available, i.e.; Zones A1 -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 elevation and flood way information available from State or federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.
- C.

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 flotation, 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. Junk yards and storage facilities for floatable 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.

307.6 Duties and Responsibilities of the Administrative Officer. The Administrative Officer shall maintain a record of

- A. All permits issued for 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.

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

- A. In accordance with the provisions of 24 VSA see 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.

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 308: Building Height Regulation, Exemption

The maximum building height requirement set forth in Sec 206 shall not apply to any building used for agricultural purposes.

Sec 309: Junk Yards

Junk, junk motor vehicles, and junk yards as defined in State Statute Title 24, VSA, Sec. 224 1, sub Sec. 5,6, &7 shall not be permitted within the boundaries of the Town of Newport

Sec 310: Destroyed or Burned or Collapsed Buildings

Any building whose roof or wall have collapsed will be required to be torn down and disposed of within one year or shall be repaired, rebuilt or replace the structure. If the foundation or cement slab is salvagable, the foundation or cement slab may remain.

Sec 311: 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

- 311.1 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.
- 311.2 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 a 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.

- 311.3 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 judgement, if the land weresubdivided into lots in conformance with the zoning regulations for the district in which the land is situated.
- 311.4 The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located. 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.
- 311.5 Lot size, width, front yard depth, and side yard requirements may not be waived. The overall density within a planned unit development shall not exceed that permitted by #311.3, In addition, in no case shall any structure be built on or conveyed with less that 0.75 acres.
- 311.6 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 percent 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 Plan Planning Commission, This may be waived by the Planning Commission for commercial and industrial planned unit developments providing adequate screening and landscaping is provided.
- 311.7 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 4447, prior to the establishment of any supplementary rules and regulations for planned unit development

Sec 312: 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 313: Agriculture and Forestry

- 313.1 Nothing contained herein shall restrict accepted agricultural or fanning 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 VSA, Sec 1021(f) and 1259(o and 6 VSA, Sec 4810.
- 313.2 Zoning permits need not be obtained for farm structures, however, any landowner proposing to erect a farm structure shall notify the Zoning Administrator of such intent prior to the erection of such structure.
- 313.3 Farm structures shall comply with setbacks approved by the Commissioner of Agriculture, food and markets. The approved setbacks are those setbacks contained in the Sec 206 of this bylaw.
- 313.4 A person proposing to construct a farm structure with setbacks less restrictive than those contained herein shall submit, in writing, a request for a variance to the Commissioner of Agriculture, food and markets. Such request must include the following information:
- A. A statement of the reason or reasons less restrictive are necessary;
  - B. A copy of this zoning bylaw;
  - C. A sketch plan of the proposed structure(s) showing the distance from all property lines, and;
  - D. A description of the adjoining land uses.

## **ART IV: NON-CONFORMITIES USES**

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 structure or use does not conform with the provisions of these regulations, provided the conditions in this section are met.

Sec. 401: 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.

## **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 consultation with the Planning Commission.

Sec 501.1 Zoning Permits

- A. No land or building development may commence unless a zoning permit shall have been duly issued by the Administrative Officer, as provided in 24 VSA, Sections 4448 and 4449. The fee for such zoning permit shall be established by the Selectboard.
- B. The Administrative Officer shall not issue a zoning permit unless an application fee, plot plan, and any other approval required by this bylaw have been properly submitted.
- C. The Administrative Officer shall keep on file in the Town Clerk's Office, available to the public, a full and accurate record of all applications, permits and violations, received, issued or incurred during the course of his/her administration.
- D. Within thirty (30) days of receipt of a complete application, including all application material fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Zoning Board of Authority and/or state for consideration. In Accordance with 24 VSA, Sections 4448, 4449, if the Administrative Officer fails to act within the 30-day period, permit shall be deemed issued on the 31<sup>st</sup> day.
- E. Zoning permits and associated approvals shall remain in effect for 1 year from the date of issuance, unless the permit and associated approvals specify otherwise. The administrative Officer may administratively renew a permit for a period not to exceed one (1) additional year upon finding that there was reasonable cause for delay in the start of the development. All development authorized by the permit shall be substantially commenced within this 2 year period or reapplication and approval shall be required to continue development.

### 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.

No action may be brought under this section unless the alleged offender has had at least seven (7) days' warning notice by certified mail that a violation exists, as required under the Act I Section 44511. The notice of violation also shall be recorded in the land records of the municipality. The notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven-day notice period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the regulations after the seven-day notice period and within the next succeeding 12 months.

### Sec 503: 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 are disqualified or are 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:

### Sec. 504: Conditional Use Review Procedures

- 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 governmental agencies from which approval is require by Federal or State Law-,
  2. The development standards of 307.4 are met or exceeded.

#### 504.1: 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 interest 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;
- and any department or administrative subdivision of the state owning property or any interest therein within the municipality or adjoining municipality, and the Vermont Agency of Commerce and Community Development.
- appeals from any decision, act or failure to act by the Administrative Officer, and any associated variance requests,
- applications for conditional use approval.

#### Sec 505: 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.

## ART VI: DEFINITIONS

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

### Sec 601: Word Definition

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 or 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 for affordable housing, bylaws may require that a certain percentage of housing units in a proposed subdivision or planned unit development meets defined affordability standard, 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: Means 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 FHBM. After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI -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: Means any area of the building having its floor subgrade (below ground level on three or more sides).

Building: Means 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 the 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 face 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 any building or other structure, land or extension of use of land.

Dwelling, 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,

Dwelling Unit: 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 and 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 or instruction in any branch of knowledge.

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

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 (FBBM): 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: Means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

Flood Proofing: Means 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: Means 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.

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

Habitable Space: 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.

Junk 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.

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

Lot: A lot is a parcel of land occupied or to be 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 approved by the Planning Commission 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 or of 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 so 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 See 306.

Mobile Home: A structure or type of manufactured home that is built on 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 40 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: Means, 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 communities 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 the present bylaws, including a structure improperly authorized as a result of error by the administrative officer. 24 VSA Sec. 4303(14)

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 street or alley.

Planned Unit Development: An area of minimum contiguous size, as specified by Sec 311, 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 311 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 place 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 normally 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 beliefs 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 principle means of access to abutting properties.

Structure: Means 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 Improvement: Means any repair, reconstruction or improvement of a structure, the cost of which equal or exceeds 50 percent of the market value of the structure either

- (a) before the improvement or repair is started or
- (b) if the structure has been damaged and is being restored, before the damage occurred.

The term does not, however, include either

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or
- (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Sites.

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 principle 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 DATE**

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 Town of Newport Zoning Bylaw, adopted March 2, 1999, along with any subsequent amendments, is hereby declared repealed and shall have no further force of effect.