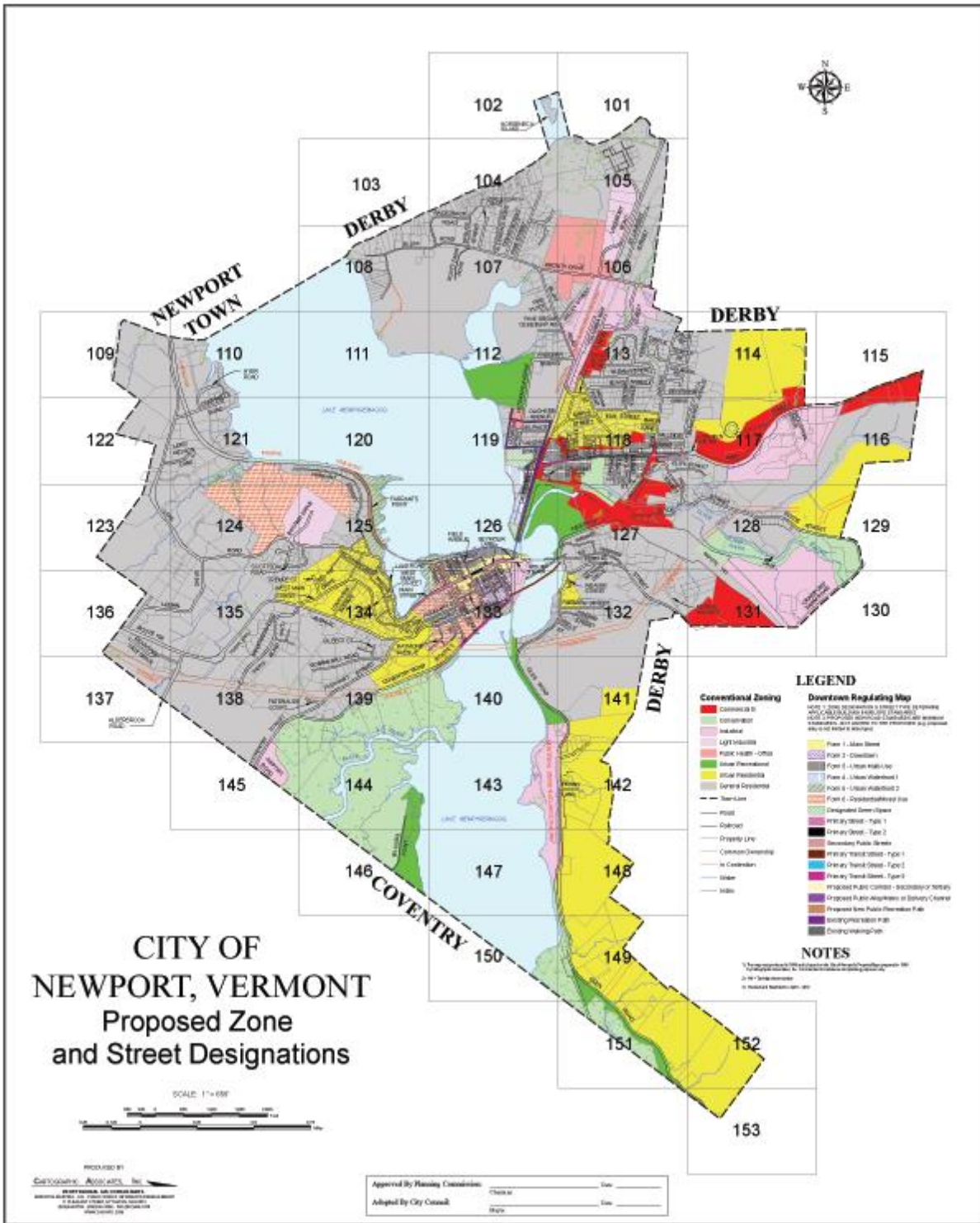




Newport City Zoning & Subdivision Bylaw



NEWPORT CITY ZONING & SUBDIVISION BYLAW

Adopted - August 30, 1971

Total Revision Adopted - September 9, 1996

Amended - August 18, 1997

Amended - January 19, 1998

Amended - May 3, 1999

Amended - September 7, 1999

Amended - September 20, 1999

Amended - December 20, 1999

Amended - August 21, 2000

Amended - October 21, 2000

Amended - November 6, 2000

Amended - December 18, 2000

Amended - April 2, 2001

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Amended - August 20, 2001

Amended - March 11, 2002

Amended - April 15, 2002

Amended - August 5, 2002

Amended - October 21, 2002

Amended - January 20, 2003

Amended - September 20, 2004

Amended - January 16, 2006

Amended - May 22, 2006

Amended - July 10, 2006

Amended - March 19, 2007

Amended - April 23, 2007

Amended - February 3, 2009 June 15 2009

Amended - June 28, 2009-Nov.1 2009 Amended with Form Based Code - Nov.1, 2010

Effective - Dec. 6, 2010

Amended - March 5, 2013

Effective - May 15, 2013

Amended - February 25, 2014

Effective - April 7, 2014

Amended - March 20, 2017

Effective - April 10, 2017

Amended - January 7, 2019

Effective - January 28, 2019

Bylaw Amendments

Date Amended: January 7, 2019

Effective Date: January 28, 2019

Sections Affected:

- Section 433 B Flood Hazard Area Regulation – updated to meet new National Flood Insurance Program requirements
 - Change Zoning at the Lakemont Industrial Park from Light Industrial to Public Health/Office
 - Classify “Residential Short-Term Room Rental Business” as a Home-Based Business
 - Modify the requirements for a “Certificate of Occupancy”
-

Date Amended: **March 20, 2017**

Effective Date: **April 10, 2017**

Sections affected:

- **Change zoning from Industrial to Com-B for Lots 116003, 116004, 117020 and 117021**
 - **Change Shoreland Control District to match new State of Vermont regulations**
 - **Add provisions for a “Certificate of Occupancy”**
-

Date Amended: **February 25, 2014**

Effective Date:

Sections affected:

- **Add Section 439 pertaining to medical marijuana dispensary**
 - **Add Section 440 pertaining to building height**
 - **Change map parcels 118191, 118202 and 117014 to Form 3**
-

Date Amended: **3.5.13**

Effective Date: **4.15.13**

Sections affected:

- **Modify 2 Lot Subdivision language**
-

Date Amended: **11.01.10**

Effective Date: **12.06.10**

Sections affected:

- **Modify Zoning map to include Form Based Code Regulating Map**
 - **Modify Article 1 to include general Form Based Code language**
 - **Move to Article 2 to 3, 3 to 4, 4 to 5 etc, etc and Article 8 changed to Article 9**
 - **Article 2 Addition of Form Based Code**
 - **Commercial A Zoning district eliminated (replaced by FBC.)**
 - **Article 4: Article 4 divided into 4-A and 4-B. 4-A is general regulations for conventional codes only. 4-B is general regulations that apply to both FBC and conventional code.**
 - **§702-Add references to State Statute. §708-Add language to incorporate FBC and add “Minor & Major impact review” language. §708.01-Add type of review chart and add FBC language. §708.02-Add FBC language. §343**
 - **Article 9: Revise definitions to include FBC definitions.**
-

Date Amended: **6.12.09**

Effective Date: **06/15/09**

Sections affected:

§205 Sections .01 thru 205.09 height requirements/allowances altered or affected:

- **Added Subdivision Regulations**
- **§341, §602.01, §802 shed height changed Technical correction to reflect the conversion to a Development Review Board**
- **§802 Changed definition of building height Rearranged sections due mainly to adding subdivision regulations**
- **§205.07 Changed allowable lot coverage**
- **§505.05(f), §505.07 & §606.01 Changed submittal requirements**
- **Changed footnote in Commercial A district to disallow religious institutions**

01-28-2019

- §802 Definition of "Waiver", "Transitional Housing", Shelter
- §343 Yard sale language modified
- §606 Changed to "Waiver"
- §205.01 Shelter and Transitional Housing
- Change/add §305.00, .01, .02
- , .03

Date Amended: 10/01/007 7

Effective Date: 10/22/07

Sections affected:

- **Added Subdivision Regulations**
 - **Technical correction to reflect the conversion to a Development Review Board**
 - **Rearranged sections due mainly to adding subdivision regulations**
-

Date Amended: 4/23/07

Effective Date: 5/14/07

Sections affected:

- **§344 – Total rewrite of Personal Wireless Telecommunications Facilities**
 - **§502.01 – added exemption for customer premises equipment for wireless service**
-

Date Amended: 3/19/07

Effective Date: 4/10/07

Sections affected:

- **§103 – added**
 - **§205.02 – changed rear yard minimum to 20 ft abutting railroad**
 - **§205.03 – changed rear yard minimum to 20 ft abutting railroad**
 - **§317 – rewritten**
 - **§330.02 – rewritten**
 - **§345 – added**
 - **§509.03 – rewritten to allow decks closer than 75 ft from water**
 - **§702 – added definitions for Historic Building and Outdoor Waterstove, changed definition of Personal Wireless Telecommunication Service Provider**
 - **Zoning district boundaries – Map 117 Lot 23 changed to Commercial Zone B**
-

Date Amended: 7/10/06

Effective Date: 7/31/06

Sections affected:

- **§205.08 – added clinic as permitted use**
 - **§702 – added definition of Bulkhead**
-

Date Amended: 5/22/06

Effective Date: 6/12/06

Sections affected:

- **§324 – minor rewording**
 - **§330 – allowed less landscaping area abutting a railroad**
 - **§336 – rewrite to be compatible will fill allowed by state**
 - **§702 – changed definitions for nonconformity and nonconforming lot, use, and structure**
 - **Zoning district boundaries – Map 139 Lot 027 changed to GR, Map 117, Lot 018 C-B and UR zones reconfigured**
-

Date Amended: 1/16/06

Effective Date: 2/07/06

Sections affected:

- **Major rewrite to conform with new state statutes**
- **Reorganized and renumbered many sections**

- **Minor and major changes to numerous sections**

Date Amended: 9/20/04

Effective Date: 10/12/04

Sections affected:

- **§338 – revised requirements for Fences, Walls and Hedges**
- **§342 – revised Small Shed Exemptions**
- **§346 – made conditional use and other minor amendments**
- **§606 – exempted some change of uses in Com zone A from site plan review**
- **Zoning district boundaries – changed Gardner Park, Prouty Beach, and Pomerleau Park to U-REC, Map 131 lots 4 & 4.001 to Commercial zone B, Map 106 lots 40 & 41 & 1.56 ac of Map 113 lot 174 to Industrial**

Date Amended: 1/20/03

Effective Date: 2/11/03

Sections affected:

- **§502 – revised Condominium definitions**
- **§205 – added Condominium uses**
- **§328 – minor revision for parking in Commercial districts**

Date Amended: 10/21/02

Effective Date: 11/12/02

Sections affected:

- **§346 – added Personal Wireless Telecommunication Facilities regulations**
- **§205 – GR zone changed lot coverage to 25%**
- **Zoning district boundaries - changed the zoning district on the northerly side of Coventry Street near the cemetery from Urban Residential to Commercial Zone A.**

Date Amended: 8/5/02

Effective Date: 8/27/02

Sections affected:

- **§205 – C zone A add Condominium as a permitted use**
- **§502 – added definition Condominium**
- **§205 – increase height limit for accessory structures**

Date Amended: 4/15/02

Effective Date: 5/7/02

Sections affected:

- **§205– split up commercial district into Zone A & Zone B**
- **§502 – added definition for Shopping Center and modified definition for Shed**
- **§328 – added parking requirement for shopping center**

Date Amended: 3/11/02

Effective Date: 4/2/02

Sections affected:

- **§205 – C zone delete 2nd paragraph in objective section & delete footnote #1**
- **§308 – changed wording to allow multiple uses on a lot in some districts**
- **Zoning district boundaries - changed the Commercial zone on Glen Road to Urban Residential.**

Date Amended: 8/20/01

Effective Date: 9/11/01

Sections affected:

- **§502 – minor change to definition of “Contractors Yard”.**
- **§502 – added definition for “Pet Services”.**
- **Zoning district boundaries - changed Map 139 Lot 46 to General Residential and changed Map 140 Lot 3 to**

Urban Residential.

Date Amended: 7/2/01

Effective Date: 7/24/01

Sections affected:

- **§205 – C zone added “Pet Services” as a permitted use**
-

Date Amended: 4/2/01

Effective Date: 4/24/01

Sections affected:

- **§205 – CON zone added Licensed Day Care as a permitted use**
 - **§205 – C zone added Parking Lot/Garage as a permitted use and Licensed Day Care and Warehouse as conditional uses. Added a footnote to Warehouse.**
 - **§205 – LI & IND zones added Licensed Day Care and Parking Lot/Garage as permitted uses.**
 - **§205 – IND zone added Parking Lot/Garage as a permitted use.**
 - **§338 – reworded the entire section.**
 - **§402.01 – required Conditional Use Approval to change a nonconforming use.**
 - **§502 – Changed definition of Warehouse and added definition for Parking Lot/Garage.**
 - **§606 – added review of water, sewer, & roadways by Dept. of Public Works and all new infrastructures must be built to City specifications.**
 - **Added City Council approved infrastructure specification to appendix.**
-

Date Amended: 12/18/00

Effective Date: 1/09/01

Sections affected:

- **§502 – added definitions for “Vehicle”, “Licensed Day Care”, and “Registered Day Care”**
 - **§502 – deleted definition for “Day Care”.**
 - **Minor changes to §205, §322 & §328.**
-

Date Amended: 11/06/00

Effective Date: 11/28/00

Sections affected:

- **Zoning district boundaries - changed Map 119 Lots 9 & 10 to Public Health/Office.**
-

Date Amended: 10/21/00

Effective Date: 11/12/00

Sections affected:

- **§342.02 – added Special Permits for Sheds Without Required Setbacks.**
-

Date Amended: 8/21/00

Effective Date: 9/12/00

Sections affected:

- **§205 – C zone added Single Family Dwelling as a conditional use.**
 - **§502 – added definitions for “shed” and “lean-to”.**
-

Date Amended: 12/20/99

Effective Date: 1/11/00

Sections affected:

- **§205 – C zone Bars changed to a conditional use.**
- **§205 – C zone Multi-family, boarding house, & home occupation removed**
- **§205 – GR, UR & URec zones increase minimum lot size for two & multi-family dwellings**
- **§328.06 added – eased parking requirements for permitted uses in commercial district**
- **§345 Yard Sales – added to the bylaw**

Date Amended: 9/20/99

Effective Date: 10/12/99

Sections affected:

- **Zoning district boundaries – enlarged commercial zone along Union St.**
-

Date Amended: 9/7/99

Effective Date: 9/29/99

Sections affected:

- **§344 Residential Care Homes – added to the bylaw**
-

Date Amended: 5/3/99

Effective Date: 5/25/99

Sections affected:

- **Zoning district boundaries – enlarged commercial zone along East Main St.**
 - **§202 - minor revisions**
 - **§328 - revised 328.01 - added 328.04 & 328.05**
-

Date Amended: 1/19/98

Effective Date: 2/10/98

Sections affected:

- **§205 – UR zone added 'Public Buildings' as a conditional use**
-

Date Amended: 8/18/97

Effective Date: 9/9/97

Sections affected:

- **Zoning district boundaries – changed to follow property lines on Tax Maps**
 - **§202 - revised**
 - **§205 – CON zone added 'Boat Storage' as a conditional use**
 - **§205 – URec zone added 'Boat Storage' as a conditional use**
 - **§205 – C zone added 'Marina' as a permitted use**
 - **§205 – LI zone minor revisions**
 - **§330.08 Sandwich Board/Portable Signs - added to the bylaw**
 - **§336.01 - minor revisions**
 - **§336.02 - minor revisions**
 - **§343 Boat Storage – added to the bylaw**
 - **§502 – definition for 'Boat Storage' added to the bylaw**
-

Date Amended: 9/9/96

Effective Date: 10/1/96

Sections affected:

- **Total revision, all sections affected.**
-

**NEWPORT CITY, VERMONT
ZONING & SUBDIVISION BYLAW**

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INTRODUCTION

* Zoning is the division of all land in the community into various appropriate districts. Within these districts the use of the land, the height and size of buildings and the other aspects of development are regulated. The locations and standards of these districts are based on the desires of the community laid out in the Newport City Municipal Plan.

* The purpose of zoning is to protect existing development from nearby detrimental development. Residential areas will remain safe places to live and play. Industrial areas will not be hampered by complaints from nearby residences, and those areas that are a mix of residential and commercial development will be regulated so that these uses are compatible.

* Newport first adopted the Zoning Bylaw in 1971 and it has periodically been updated since that date. This updated version is both a revision of the previous bylaw and a re-write of certain aspects of the previous Bylaw to include Form Based Code. The revisions and re-write endeavor to improve its' organization, bring it into compliance with current State law and with the new City Plan, clarify parts of the bylaw that have been sources of uncertainty and include the Form Based Code(FBC.)

* The Newport City Zoning Bylaw has been established to conform to, and be in harmony with, the Vermont Municipal and Regional Planning and Development Act. Any conflicts that are identified between the two documents will defer to Title 24 VSA, Chapter 117 as the prevailing authority.

CITY OF NEWPORT, VERMONT FORM BASED CODE, ZONING & SUBDIVISION BYLAW

ARTICLE 1: ENACTMENT AND INTENT

§101 Enactment

In accordance with the Vermont Municipal and Regional Planning and Development Act (Title 24 VSA, Chapter 117), there is hereby established a zoning bylaw for the City of Newport which is set forth in the text and Regulating map that constitutes this bylaw. This bylaw shall be known and cited as the "Newport City Regulating Map and Zoning Bylaw".

§102 Intent

It is the intent of this Regulating Map and Zoning Bylaw to provide for orderly community growth and to further the purposes established in Title 24 VSA, §4302.

§103 Purpose

The purposes of this bylaw are to advance the objectives of the Newport City Municipal Plan and to protect the public health, safety and general welfare of the City of Newport. This bylaw shall:

- A. Preserve the character and appearance of the City of Newport.
- B. Protect the scenic, historic, environmental and natural resources of the City of Newport.
- C. Protect the historic buildings in the City of Newport.

§104 Application/Employment of Zoning & Subdivision Bylaw

104.01. The application of this bylaw is subject to Title 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 as herein specified for the district in which such structure is located. Note in Article 2 Form Based Code if a use is not specifically disallowed it is allowed per the specific Building Envelope Standard (BES.)

- 104.02 Article 2 describes Form Based Code (FBC.)
- 104.03 Article 3 describes “Conventional” Code.
- 104.04 Article 4 is General Regulation
 - 1. Article 4-A is general regulations that apply solely to “Conventional” code.
 - 2. Article 4-B is general regulations that apply to both FBC and “Conventional” code.
- 104.05 Article 5 describes to Non-conformities and applies to both FBC and “Conventional” code.
- 104.06 Article 6 describes Subdivision Regulations
- 104.07 Article 7 describes Administration and Enforcement and applies to both FBC and “Conventional” code.
- 104.08 Article 8 describes Amendments, Interpretation, Effective date and applies to both FBC and “Conventional” code.
- 104.09 Article 9 is definitions and applies to both FBC and “Conventional” code.

ARTICLE 2: ESTABLISHMENT OF FORM BASED CODE & FBC ZONING DISTRICTS AND BOUNDARIES

§201 Establishment of FBC and Regulating Map.

Newport is hereby divided into the following Zoning Districts as shown on the City Regulating & Zoning Map:

- Form 1 Main Street
- Form 2 Downtown
- Form 3 Urban Multi-Use
- Form 4 Urban Waterfront 1
- Form 5 Urban Waterfront 2
- Form 6 Residential/Mixed-Use

§202 Form Based Code District Regulations

Form-Based Code (FBC) identifies the basic physical characteristics of building sites/zones/street types and determines the Building Envelope Standards (BES) (see pages 10-25) to be applied in accordance with the *City of Newport FBC Regulating Map*.

Newport’s Regulating Map illustrates disposition of each property or lot and how it relates to its adjacent properties and streets/building sites. All sites/lots described in Newport’s FBC are regulated by street frontage/type and BES.

§203 Intent

Newport’s FBC district is intended to be understood/coded as perimeter blocks with buildings typically placed at the street along the outer edge of their sites or lots. The street type and zone-building envelope standards promote a coherent streetscape throughout the FBC districts. The prescribed standards will, additionally, assist building owners/developers in understanding the relationship between streets, lots, built

environment and the public realm. These standards will endeavor to establish an environment that encourages and facilitates pedestrian activity.

§204 Process/Administration/Issuance

In the Newport City FBC districts, there are two discrete review processes: Administrative Process or Special Requirement Process. Special Requirement Process will require that the permit application be reviewed by the Development Review Board (DRB). Special Requirements are dependent upon site size, project size and/or the need for minor variations/adjustment to the FBC BES standards. Additionally, all permit applications that require Act 250 review shall require DRB review. If the proposed use is a permitted use but Special Requirements Review is triggered the DRB shall only review the proposed permit application utilizing the appropriate form requirements.

Section 604 of the Newport City Zoning & Subdivision Bylaw sets forth the provisions and requirements for the DRB review process. However, in the FBC overlay district the criteria for review will be: 1. Regulating Map; 2. BES; 3. Streetscape Standards.

A) Administrative Review

Size Requirements: Projects on sites less than 40,000 square feet or with proposed building square footages less than 30,000 (total) square feet shall be reviewed administratively. If the permit application meets all of the standards of FBC and are also a permitted use, the Zoning Administrator shall issue a zoning permit. Permits will not be issued for building activity until review is completed and a determination made that the proposal is consistent with FBC requirements. All permits will be issued in accordance with standards set for Section 601 of Newport City Zoning & Subdivision Bylaw.

B) Special Requirement Permit Review -DRB.

Special Requirement Permit --DRB review will be required for sites over 40,000 square feet or with proposed building square footages over 30,000 (total)square feet. Such sites/proposed projects will be required to meet the intent and conform to the FBC standards and will be evaluated in those terms. They also must meet the objectives described in Site Plan Review of the Newport City Zoning Bylaw.

The DRB review process for Special Requirement Permits may allow for deviations in the FBC standards-- Examples of these deviations may include problems related to topography or street grade, the location of alley and streets, building breaks and passages between buildings, signs, streetscape details, and design issues related to the inclusion of existing buildings. Where properties of less than 40,000 square feet have such difficulties they shall require DRB Review.

All permit issuance requirements shall be in accordance Title 24 VSA, Chapter 117 and Newport City Zoning & Subdivision Bylaw.

§205 Streetscape Requirements

- In the built environment, the street and building façade receives more attention than the rest of the building. Streetscape elements, such as built edge, brick pavers, benches and waste-bins, throughout Newport’s Designated Downtown and FBC districts must be consistent within a project and should be consistent from project to project within a building activity area.
- Building facades are the public “face” of every building and support the life of the street. Owners/developers are encouraged to utilize recommended Architectural Standards (appendix A) and streetscape amenities—such as planters and window boxes.
- Building rear façades, or the more private, rear portions of the lots (toward the alley) are considered valuable/contributing members to the public realm—to be developed, maintained and are required to adhere to appropriate Streetscape standards.
- Street furniture, bike racks, benches, trash receptacles are required--see BES for specific requirements.
- Street trees are part of an overall streetscape; tree requirements are determined by street type and location—See Tree Chart (appendix B).

§206 Lots, Blocks, Streets and Alleys

- All lots shall share a frontage line with a street or alley (no landlocked lots.)
- All lots and/or all contiguous lots shall be considered to be part of a block. No block face shall have a length greater than 400 feet without an alley, common access easement or pedestrian pathway providing through-access to another street, alley, common access easement or courtyard. Alleys may provide access to the rear of all lots. Alley construction is required as part of redevelopment projects at the rear of property, unless an alley already exists.
- Where an alley does not exist and is not constructed at the time of redevelopment of any property, the developer is required to dedicate the alley right of way within or at the rear of the lot--Alley Type 1 standard—minimum.
Alleys shall be kept clear of debris, stored materials, and illegally-parked vehicles.
- Curb cuts shall be limited to no more than one per 200 feet on primary streets
- On sites with no alley access, there shall be a 12-foot setback from the rear lot line to provide alley or delivery channel access.

§207 Buildings

The hierarchy of BES, in descending order (most dense to least dense), is as follows:

- Form 1 Main Street
- Form 2 Downtown
- Form 3 Urban Multi-Use
- Form 4 Urban Waterfront 1
- Form 5 Urban Waterfront 2
- Form 6 Residential/Mixed-Use

- The maximum building footprint is 40,000 square feet; beyond that limit a special exception is necessary. Large stores may have a maximum ground floor footprint of 50,000 square feet—overall square footage may be greater.
- For each block, building(s) along the "build-to line" shall present a complete and discrete vertical façade composition at an average street frontage length of 30 feet--varies per BES. Each façade on primary or secondary (per BES) streets, shall include a functioning, public entry. This may be satisfied through the use of shops for large footprint buildings
- Consistent BES shall front one another on the Regulating Plan.
- When the Building Envelope/Edge Standard designation changes along a property frontage, the property owner has the option of applying either BES for a maximum additional distance of 50 feet in either direction along that frontage.
- Publicly-owned, civic buildings (e.g. courthouses, municipal offices, etc) may be exempt from prescriptions of this code. The DRB may modify all other provisions of this FBC for publicly-owned, civic buildings in a less restrictive manner.

§208 Building Breaks

The physical design of a building facade should vary minimally at intervals determined by the form standard. Variations can be achieved by utilizing the following techniques:

- Architectural division into multiple buildings,
- Break or articulation of the façade--*Building Break Types* (see diagram, §211.07
 1. Façade height change
 2. Vertical surface shift
 3. Horizontal surface shift /adjustment—section change
 4. Significant material change
 5. Arcade/gallery
- Significant change in facade design,
- Placement of window and door openings, or position of awnings and canopies.

§209 Parking

General goals and standards:

- Enable people to park once at a convenient location and to access a variety of commercial enterprises in pedestrian-friendly environments by encouraging shared parking.
- Reduce diffused, inefficient, single-purpose reserved parking.
- Avoid adverse parking impacts on neighborhoods adjacent to redevelopment areas.
- Maximize on-street parking. Provide flexibility for redevelopment of small sites and for the preservation of historic buildings.
- Promote prototype projects using flexible and creative incentives.

Garage and Parking Entrances

- Any garage and/or vehicle (autos, trailers, boats, etc.) parking areas-except where parking is located in an ancillary structure enclosed in a rear-loading town-house garage, or in a below-grade

garage – on private property shall not be located within 25 feet from any build-to-line (except for basement garages) and screened from the street by a *street wall*.

- Parking access shall be from an alley when possible. Designated garage entries and alleys shall be the sole means of automobile access to a site unless otherwise approved by a DRB special requirement permit.
- Garage doors on residential parking shall not be at an angle of less than 90 degrees from the primary front build-to-line or right of way unless otherwise approved by DRB special requirement permit.
- These requirements are not applicable to on-street parallel or angled parking.

Parking Types

In general, allowed parking is as follows:

- Behind-structure, surface parking: ground-level public or private parking lot that is located in the rear yard behind a building. When possible, access to the parking shall be taken from an alley.
- Parking structure: a building where the primary function is to provide parking. Ground-level, building edge at primary and secondary street fronts shall maintain a pedestrian-related use.
- Tucked-under: ground -level, private, covered parking lot located directly beneath the second floor of building. Tucked-under parking shall not be visible from the public right-of-way unless the right-of-way is a city designated alley.
- Sub-surface/under parking facility that is below grade.
- [Parking next to structure-**disallowed in Form(s) 1, 2, 3, 4 & 5.**] Parking next to the building is allowed but discouraged in Form 6

§210 Retail General Intentions

Retail is required on the ground level at primary streets and, to a lesser degree, on secondary streets-see specific BES §211. The inclusion of retail enlivens the street and creates a purpose for pedestrians/citizens to make use of the streets. Unless otherwise noted, retail is an inclusive phrase that encompasses consumer comparison—goods, general merchandise, apparel, furnishings and other types of similar merchandise, convenience goods, food/delis, gifts, drugstore items, cards/stationery, business services, restaurants, grocery stores, lodging, hotel, theater, and other uses that provide visual interest and create active street life.

Retail types:

Retail 1: Uses that provide for the direct exchange of goods/commodities with the consumer **and/or** venues that provide entertainment or leisure activities. Generally Retail 1 promotes high walk-in customer counts, or are shopping destinations. Retail 1 includes stores, restaurants, barber shops, beauty salons, theatre/entertainment venues and hotel lobbies.

Retail 2: Uses that provide business/professional services. Generally, Retail 2 provides essential services that are not typically high-volume foot traffic.

All direct to consumer exchange of goods and services (retail) are divided into these two categories/types.

Unless otherwise noted, in BES all ground-floor retail refers to definition # 1: Retail.1. When Retail1 is required on ground level. Retail 2 is allowed on all levels above ground level.

§211 Forms and Standards.

211.01 Form 1

211.02 Form 2

211.03 Form 3

211.04 Form 4

211.05 Form 5

211.06 Form 6

211.07 Building Break and Storefront Standards

211.08 Frontage Types

211.09 Street Types and Street Type Standards-Primary Public Streets

211.10 Street Types and Street Type Standards-Secondary Public Streets

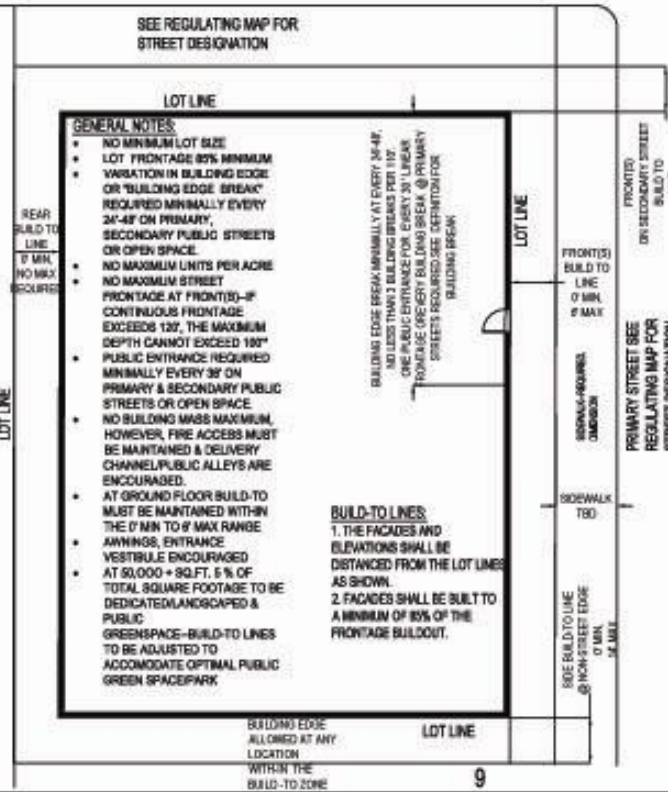
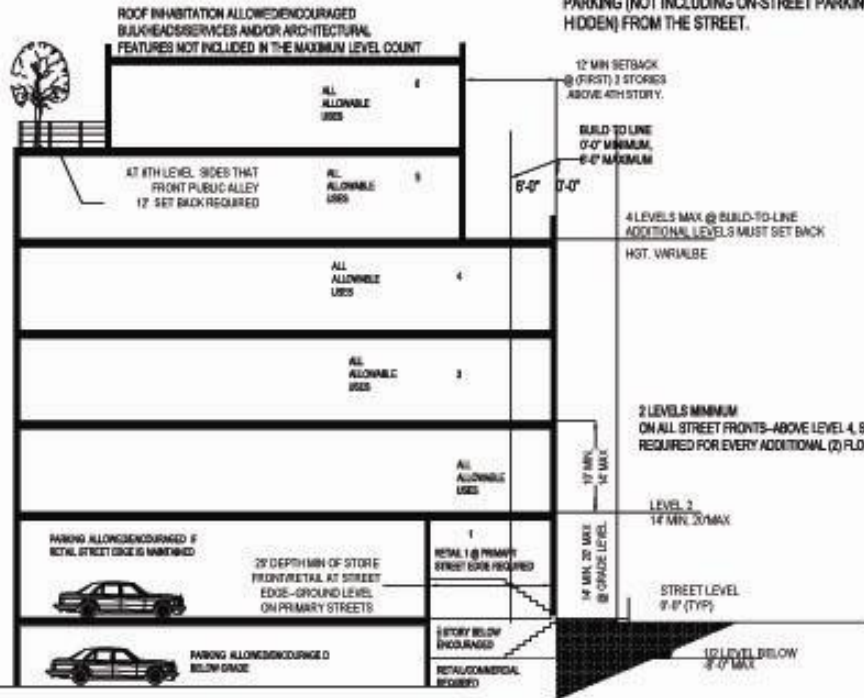
211.11 Street Types and Street Standards-Primary Transit Streets

211.12 Street Types and Street Standards-Primary Transit Streets

211.13 Alley Standards

211.01 FORM 1 BUILDING ENVELOPE STANDARDS (BES) (PAGE 1 OF 2) SOUTH SIDE OF STREET.

PURPOSE:
THE EMPHASIS IN THIS FORM IS ON MAIN STREET WITH HIGH-FOOT-TRAFFIC PEDESTRIANISM. THEREFORE THE PURPOSE OF THIS FORM IS TO CREATE A STREET ORIENTED PUBLIC REALM THAT ENCOURAGES A DENSE DOWNTOWN, MULTI-USE/MULTI-PURPOSE BUILT ENVIRONMENT. OVERALL, PARKING (NOT INCLUDING ON-STREET PARKING) SHALL BE AWAY (OR HIDDEN) FROM THE STREET.



SPECIAL REGULATIONS GROUND FLOOR STANDARDS

- A. FOR NEW CONSTRUCTION, NON-RESIDENTIAL USES SHALL BE ON THE GROUND FLOOR LEVEL & AT PRIMARY STREETS, RETAIL USES SHALL BE REQUIRED
- B. A PUBLIC, PEDESTRIAN ENTRANCE SHALL BE REQUIRED ON PRIMARY STREETS—ONE PER 30' MIN.
- C. NO LESS THAN 10% OF THE FAÇADE SHALL BE GLAZING

PARKING LOCATION STANDARDS

NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS.

- A. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 1,000 FEET OF THE PROPOSED USE.
- B. PARKING SPACES MAY BE LEASED FROM THE CITY OR A PRIVATE LANDOWNER.
- C. NEW PARKING SPACES SHALL BE SCREENED FROM THE PUBLIC REALM/STREET

STREETSCAPE STANDARDS—SEE STREET TYPE REQUIREMENTS.

GENERAL: ALL ELEMENTS MUST BE CONSISTENT WITH A PROJECT.

- A. STREET TREES SHALL BE PLANTED AT AN AVERAGE SPACING OF 30' ON CENTER.
- B. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE PLANTED WITH GROUND COVER OR FLOWERING VEGETATION.
- C. SIDEWALKS SHALL BE CONCRETE & BRICK A MINIMUM OF 5' WIDE. ALL OTHER REQUIREMENTS DETERMINED BY STREET STANDARDS PER STREET DESIGNATION.
- D. STREET FURNITURE SHALL INCLUDE:
1 BENCH FOR EVERY 100 FEET OF FRONTAGE & 1 BIKE RACK PER NON-RESIDENTIAL PROJECT MIN. AND/OR
1 BIKE RACK FOR EVERY 100 FEET OF FRONTAGE
A MINIMUM OF 1 WASTE BIN AT EACH BLOCK CORNER.

GENERAL NOTES:

- NO MINIMUM LOT SIZE
- LOT FRONTAGE 80% MINIMUM
- VARIATION IN BUILDING EDGE OR "BUILDING EDGE BREAK" REQUIRED MINIMALLY EVERY 24'-48" ON PRIMARY, SECONDARY PUBLIC STREETS OR OPEN SPACE.
- NO MAXIMUM UNITS PER ACRE
- NO MAXIMUM STREET FRONTAGE AT FRONT(S)—IF CONTINUOUS FRONTAGE EXCEEDS 120', THE MAXIMUM DEPTH CANNOT EXCEED 100'
- PUBLIC ENTRANCE REQUIRED MINIMALLY EVERY 30' ON PRIMARY & SECONDARY PUBLIC STREETS OR OPEN SPACE.
- NO BUILDING MASS MAXIMUM, HOWEVER, FIRE ACCESS MUST BE MAINTAINED & DELIVERY CHANNEL/PUBLIC ALLEYS ARE ENCOURAGED.
- AT GROUND FLOOR BUILD-TO LINES MUST BE MAINTAINED WITHIN THE 0' MIN TO 6' MAX RANGE
- AWNINGS, ENTRANCE VESTIBULE ENCOURAGED AT 50,000 + SQ. FT., 5% OF TOTAL SQUARE FOOTAGE TO BE DESIGNATED/LANDSCAPED & PUBLIC GREENSPACE—BUILD-TO LINES TO BE ADJUSTED TO ACCOMMODATE OPTIMAL PUBLIC GREEN SPACE/PARK

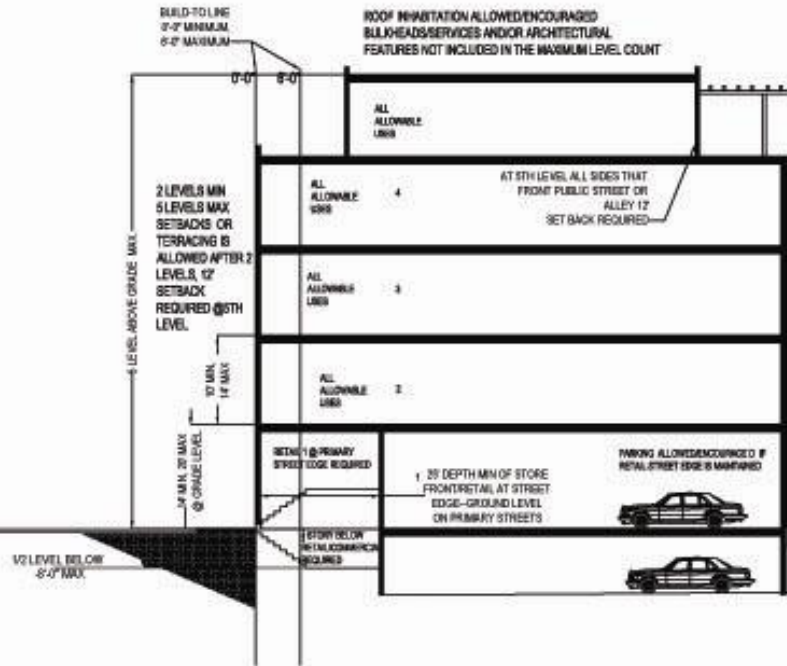
BUILD-TO LINES:

1. THE FAÇADES AND ELEVATIONS SHALL BE DISTANCED FROM THE LOT LINES AS SHOWN.
2. FAÇADES SHALL BE BUILT TO A MINIMUM OF 85% OF THE FRONTAGE BUILDOUT.

BUILDING EDGE BREAK MINIMALLY EVERY 24'-48".
NO RESTRICTIONS BUILDING FROM LOT LINE.
ONE PUBLIC ENTRANCE FOR EVERY 30' MIN.
PARKING SPACE (OR EVERY BUILDING BREAK @ PRIMARY STREETS REQUIRED SEE DEFINITION FOR BUILDING BREAK

BUILDING EDGE ALLOWED AT ANY LOCATION WITHIN THE BUILD-TO-ZONE

211.01 FORM 1 BUILDING ENVELOPE STANDARDS (BES)
(CONT.) NORTH SIDE OF STREET.



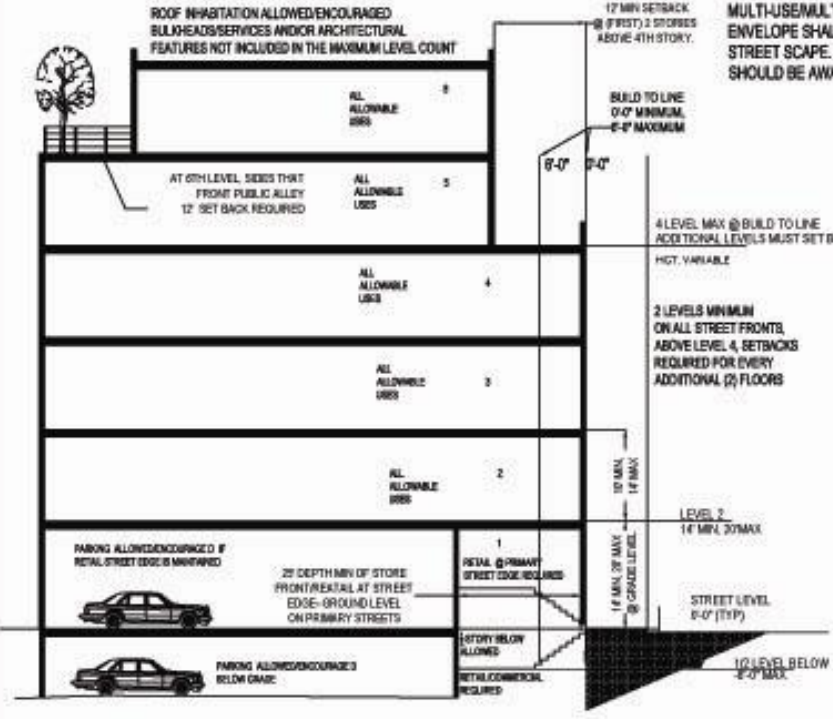
NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

USE TABLE-	
1. ADULT BOOKSTORE, VIDEO, CABARET.	NOT PERMITTED
2. RELIGIOUS INSTITUTIONS* SEE DEFINITION	NOT PERMITTED
3. SCHOOLS* SEE DEFINITION	NOT PERMITTED
4. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC.	NOT PERMITTED

* NOT PERMITTED ON GROUND FLOOR

211.02 FORM 2 BUILDING ENVELOPE STANDARDS (BES)

PURPOSE:
THE PURPOSE OF THIS ZONE IS TO CREATE A STREET-ORIENTED PUBLIC REALM THAT ENCOURAGES A DENSE DOWNTOWN, MULTI-USE/MULTI-PURPOSE BUILT ENVIRONMENT. THE BUILDING ENVELOPE SHALL BE ORIENTED TOWARD THE PEDESTRIAN-FRIENDLY STREET SCAPE. PARKING (NOT INCLUDING ON STREET PARKING) SHOULD BE AWAY (OR HIDDEN) FROM THE STREET

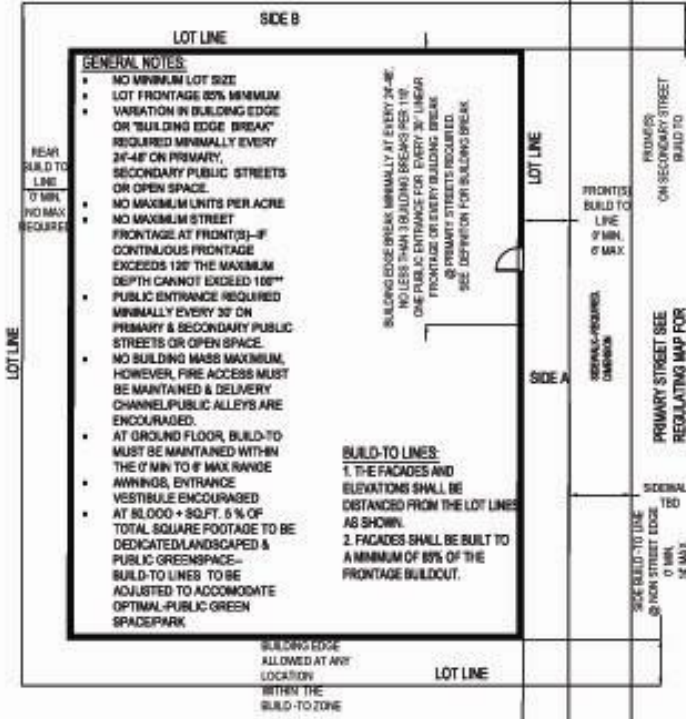


NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

USE TABLE-	
2. RELIGIOUS INSTITUTIONS * SEE DEFINITION	NOT PERMITTED
3. SCHOOLS * SEE DEFINITION	NOT PERMITTED
4. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC.	NOT PERMITTED

* NOT PERMITTED ON GROUND FLOOR

SEE REGULATING MAP FOR STREET DESIGNATION



GENERAL NOTES:

- NO MINIMUM LOT SIZE
- LOT FRONTAGE 80% MINIMUM
- VARIATION IN BUILDING EDGE OR "BUILDING EDGE BREAK" REQUIRED MINIMALLY EVERY 24'-48" ON PRIMARY, SECONDARY PUBLIC STREETS OR OPEN SPACE.
- NO MAXIMUM STREET FRONTAGE AT FRONT(S)-IF CONTIGUOUS FRONTAGE EXCEEDS 120' THE MAXIMUM DEPTH CANNOT EXCEED 100'
- PUBLIC ENTRANCE REQUIRED MINIMALLY EVERY 30' ON PRIMARY & SECONDARY PUBLIC STREETS OR OPEN SPACE.
- NO BUILDING MASS MAXIMUM, HOWEVER, FIRE ACCESS MUST BE MAINTAINED & DELIVERY CHANNEL/PUBLIC ALLEYS ARE ENCOURAGED.
- AT GROUND FLOOR, BUILD-TO MUST BE MAINTAINED WITHIN THE 0' MIN TO 8' MAX RANGE
- AWNINGS, ENTRANCE VESTIBULE ENCOURAGED AT 8,000+ SQ. FT. & 5% OF TOTAL SQUARE FOOTAGE TO BE DEDICATED/LANDSCAPED & PUBLIC GREENSPACE.
- BUILD-TO LINES TO BE ADJUSTED TO ACCOMMODATE OPTIMAL PUBLIC GREEN SPACE/PARK

BUILD-TO LINES:
1. THE FACADES AND ELEVATIONS SHALL BE DISTANCED FROM THE LOT LINES AS SHOWN.
2. FACADES SHALL BE BUILT TO A MINIMUM OF 80% OF THE FRONTAGE BUILDOUT.

SPECIAL REGULATIONS GROUND FLOOR STANDARDS

- A. FOR NEW CONSTRUCTION NON-RESIDENTIAL USES SHALL BE ON THE GROUND FLOOR LEVEL & AT PRIMARY STREETS RETAIL USES SHALL BE REQUIRED
- B. A PEDESTRIAN ENTRANCE SHALL BE REQUIRED ON PRIMARY STREETS. A PUBLIC ENTRANCE -ONE PER 30' MIN.
- C. NO LESS THAN 70% OF THE FAÇADE SHALL BE GLAZING

PARKING LOCATION STANDARDS

NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS.

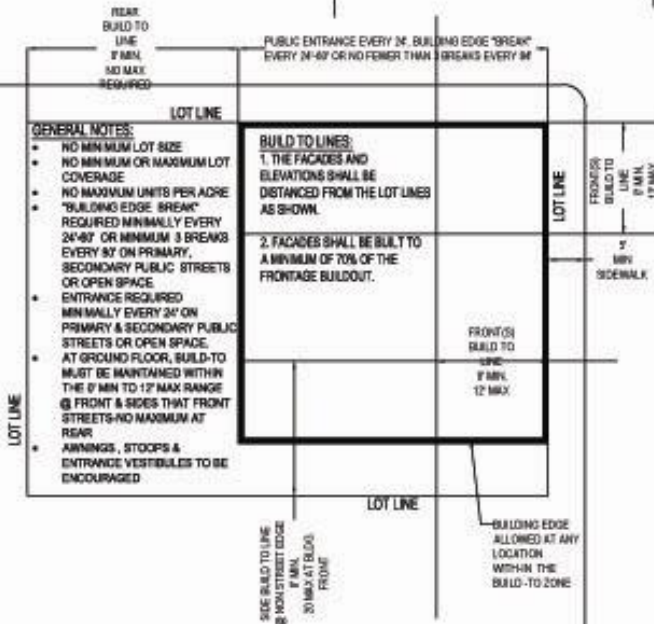
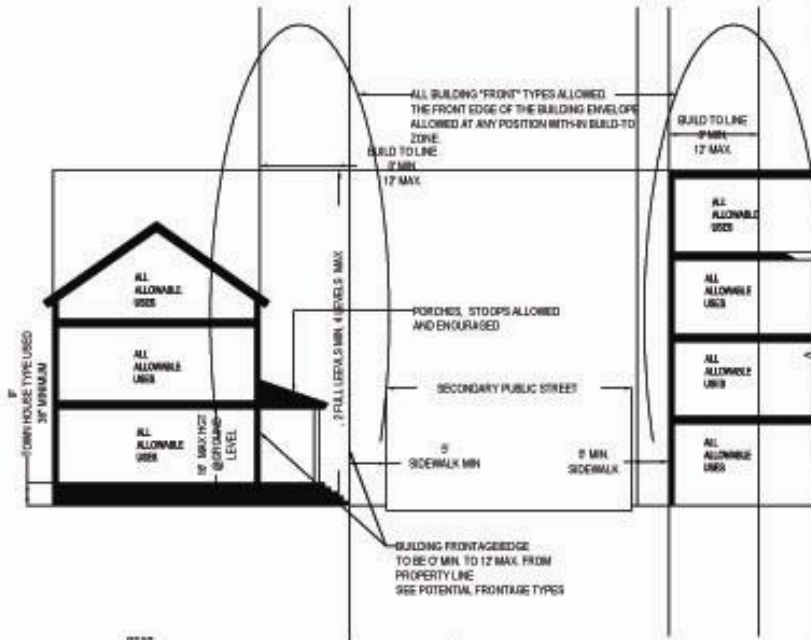
- A. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 1,000 FEET OF THE PROPOSED USE.
- B. PARKING SPACES MAY BE USED FROM THE CITY OR A PRIVATE LANDOWNER.
- C. NEW PARKING SPACES SHALL BE SCREENED FROM THE PUBLIC REALM/STREET

STREETScape STANDARDS--SEE STREET TYPE REQUIREMENTS.
GENERAL: ALL ELEMENTS MUST BE CONSISTENT WITHIN A PROJECT.

- A. STREET TREES SHALL BE PLANTED AT AN AVERAGE SPACING OF 30' ON CENTER.
- B. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE PLANTED WITH GROUND COVER OR FLOWERING VEGETATION.
- C. SIDEWALKS SHALL BE CONCRETE A MINIMUM OF 5 FEET WIDE. ALL OTHER REQUIREMENTS DETERMINED BY STREET STANDARDS-PER STREET DESIGNATION.
- D. STREET FURNITURE SHALL INCLUDE:
1 BENCH FOR EVERY 100 FEET OF FRONTAGE & 1 BIKE RACK PER NON-RESIDENTIAL PROJECT MIN.
1 BIKE RACK FOR EVERY 100 FEET OF FRONTAGE
A MINIMUM OF 1 WASTE BIN AT EACH BLOCK CORNER.

211.03 FORM 3 URBAN MULTI-USE BUILDING ENVELOPE STANDARDS (PAGE 1 OF 2)

PURPOSE:
THE PURPOSE OF THIS ZONE IS TO CREATE A STREET ORIENTED PUBLIC REALM THAT ENCOURAGES A DENSE MULTI-USE/MULTI-PURPOSE BUILT ENVIRONMENT. RESIDENTIAL, STOREFRONT AND COMMERCIAL USES ENCOURAGED. THE OVERALL EMPHASIS IS ON MEDIUM FOOT TRAFFIC PEDESTRIANISM. PARKING (NOT INCLUDING ON STREET PARKING) SHALL BE AWAY (OR HIDDEN) FROM THE STREET



SPECIAL REGULATIONS
GROUND FLOOR STANDARDS

- A. ENTRANCE SHALL BE REQUIRED ON PRIMARY STREETS-PUBLIC ENTRANCE ONE PER 24' MIN.
- B. NO LESS THAN 30% OF FACADE IN EACH DIRECTION (HORIZONTAL AND VERTICAL DIMENSION) SHALL BE GLAZING. EXAMPLE: IF FACADE IS 10' WIDE THE TOTAL GLAZING WIDTH WILL BE NO LESS THAN 3'. SAME FOR HORIZONTAL DIRECTION.

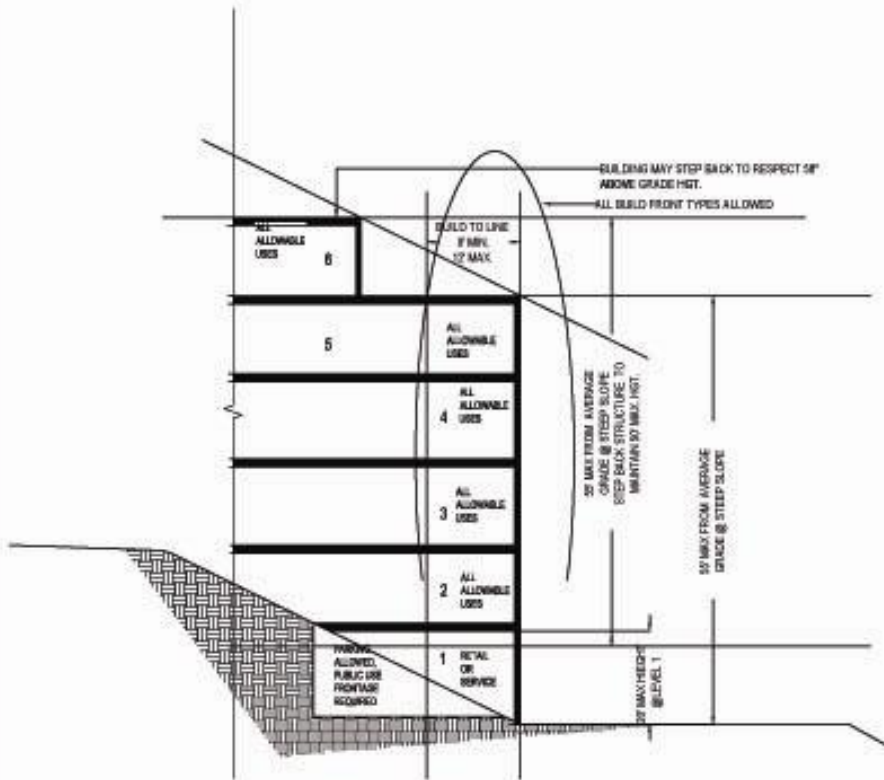
PARKING LOCATION STANDARDS

- NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS.
- A. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 1,000 FEET OF THE PROPOSED USE.
- B. PARKING SPACES MAY BE LEASED FROM THE CITY OR A PRIVATE LANDOWNER.
- C. NEW PARKING SPACES SHALL BE SCREENED FROM THE PUBLIC REALM/STREET
- D. NEW PARKING UNDER STRUCTURE ENCOURAGED

STREETSCAPE STANDARDS:

- ALL ELEMENTS MUST BE CONSISTENT WITHIN A PROJECT.
- A. STREET TREES SHALL BE PLANTED AT AN AVERAGE SPACING OF 30' ON CENTER.
- B. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE PLANTED WITH GROUND COVER OR FLOWERING VEGETATION.
- C. SIDEWALKS SHALL BE CONCRETE A MINIMUM OF 5 FEET WIDE. ALL OTHER REQUIREMENTS DETERMINED BY STREET STANDARDS-PER STREET DESIGNATION.
- D. STREET FURNITURE SHALL INCLUDE:
1 BENCH FOR EVERY 100 FEET OF FRONTAGE & 1 BIKE RACK PER NON-RESIDENTIAL PROJECT MIN.
1 BIKE RACK FOR EVERY 100 FEET OF FRONTAGE
A MINIMUM OF 1 WASTE BIN AT EACH BLOCK CORNER.

211.03 FORM 3 (CONT.) (BES)
URBAN MIXED USE
STEEP SLOPE --STEEP SLOPE =25% GRADE OR GREATER.



AT GRADES GREATER THAN 20% BUILDING HEIGHT--50' MAX ABOVE AVERAGE GRADE--SEE ABOVE DIAGRAM. ALL OTHER STANDARDS ARE THE SAME.

NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

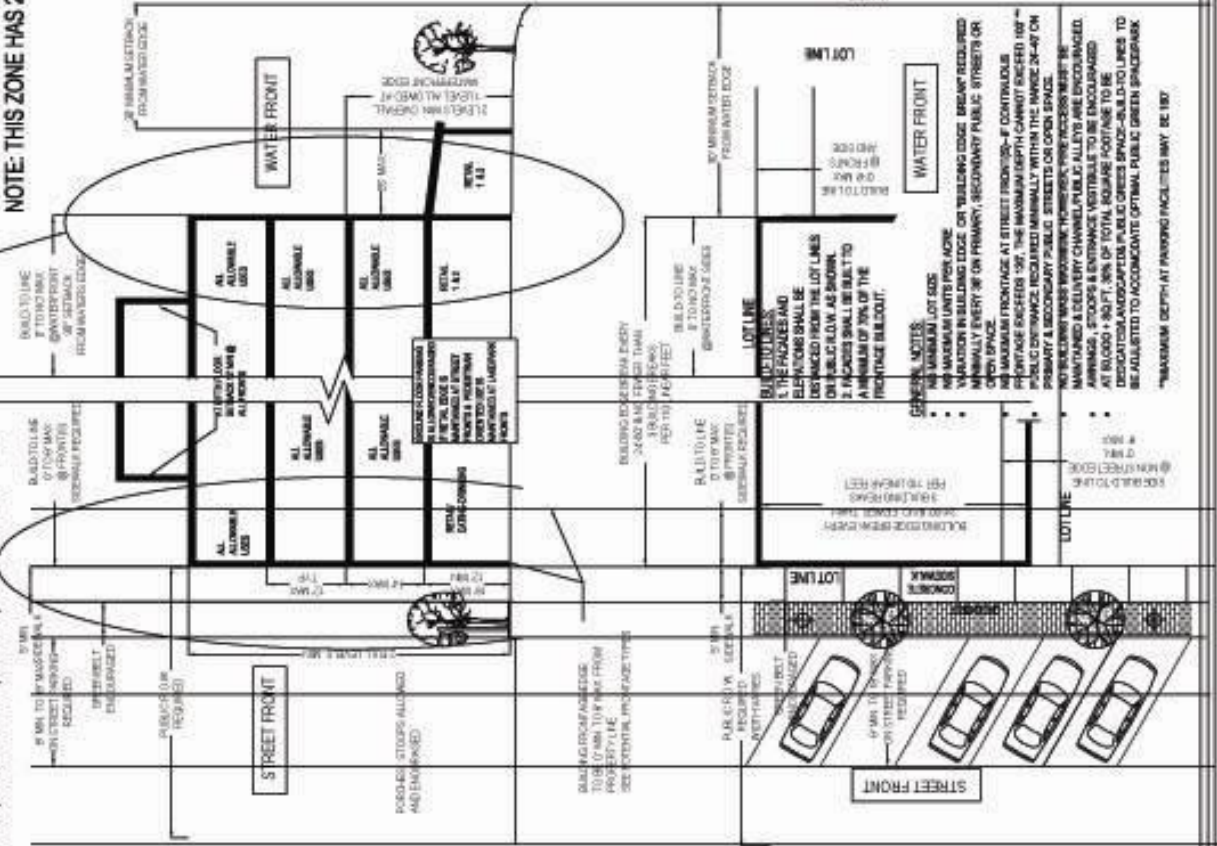
USE TABLE-	
1. ADULT BOOKSTORE, VIDEO, CABARET.	NOT PERMITTED
2. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC.	NOT PERMITTED

211.04 FORM 4 URBAN WATER FRONT 1 BUILDING ENVELOPE STANDARDS

NOTE: THIS ZONE HAS 2 DISCRETE FRONTS

PURPOSE: THE PURPOSE OF THIS ZONE IS TO CREATE A STREET ORIENTED PUBLIC REALM THAT ENCOURAGES OPEN PUBLIC RECREATION SPACE ORIENTED TOWARD THE WATERFRONT. PARKING (NOT INCLUDING ON STREET PARKING) SHOULD BE AWAY (OR HIDDEN) FROM THE STREET

ALL BUILDING FOOTPRINTS ALLOWED IN THIS ZONE SHALL BE LIMITED TO THE FRONT EDGE OF BUILDING ENVELOPE ALLOWED AT A POSITION WITHIN BUILDING FOOTPRINT



NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

USE TABLE	NOT PERMITTED
1. ADULT BOOKSTORE, VIDEO, CIGARETTE	NOT PERMITTED
2. RELIGIOUS INSTITUTIONS*	NOT PERMITTED
SEE DEFINITION	
3. SCHOOLS*	NOT PERMITTED
SEE DEFINITION	
4. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC.	NOT PERMITTED

*NOT PERMITTED ON GROUND FLOOR

SPECIAL REGULATIONS

GROUND FLOOR STANDARDS

A. ENTRANCE SHALL BE REQUIRED ON STREETS-PUBLIC ENTRANCE - R/W ONE PER 30' TO 40' B/W - NOTE PUBLIC ENTRANCES MAY OCCUR AT INTERVALS LESS THAN 30'

B. NO LESS THAN 85% OF THE FAÇADE SHALL BE GLAZED

PARKING LOCATION STANDARDS

NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS

A. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 1,000 FEET OF THE PROPOSED USE

B. PARKING SPACES MAY BE LARGED FROM THE CITY OR A PRIVATE LANDOWNER

C. PARKING SPACES FACILITY MAY BE SHARED - PARKING IS ENCOURAGED

D. NEW PARKING SPACES (EXCEPT ON STREET PARKING) SHALL BE SCREENED FROM THE PUBLIC REALM (STREET OR PARK)

E. NEW PARKING UNDER STRUCTURE ENCOURAGED (TUCK UNDER PARKING TYPE)

F. ALL NEW PARKING STRUCTURES SHALL MAINTAIN 8' AT GROUND FLOOR USE RETAIL REQUIRED

STREET SCAPE STANDARDS

ALL ELEMENTS MUST BE CONSISTENT WITH A PROJECT

A. STREET TREES SHALL BE PLANTED USING STREET TREE STANDARDS APPENDIX A

B. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE PLANTED WITH GROUND COVER OR PLANTING VEGETATION

C. SEEDINGS SHALL BE CONCRETE A MINIMUM OF 6 FEET WIDE. ALL OTHER REQUIREMENTS DETERMINED BY STREET STANDARDS PER STREET DESIGNATION

D. STREET FURNITURE SHALL INCLUDE:

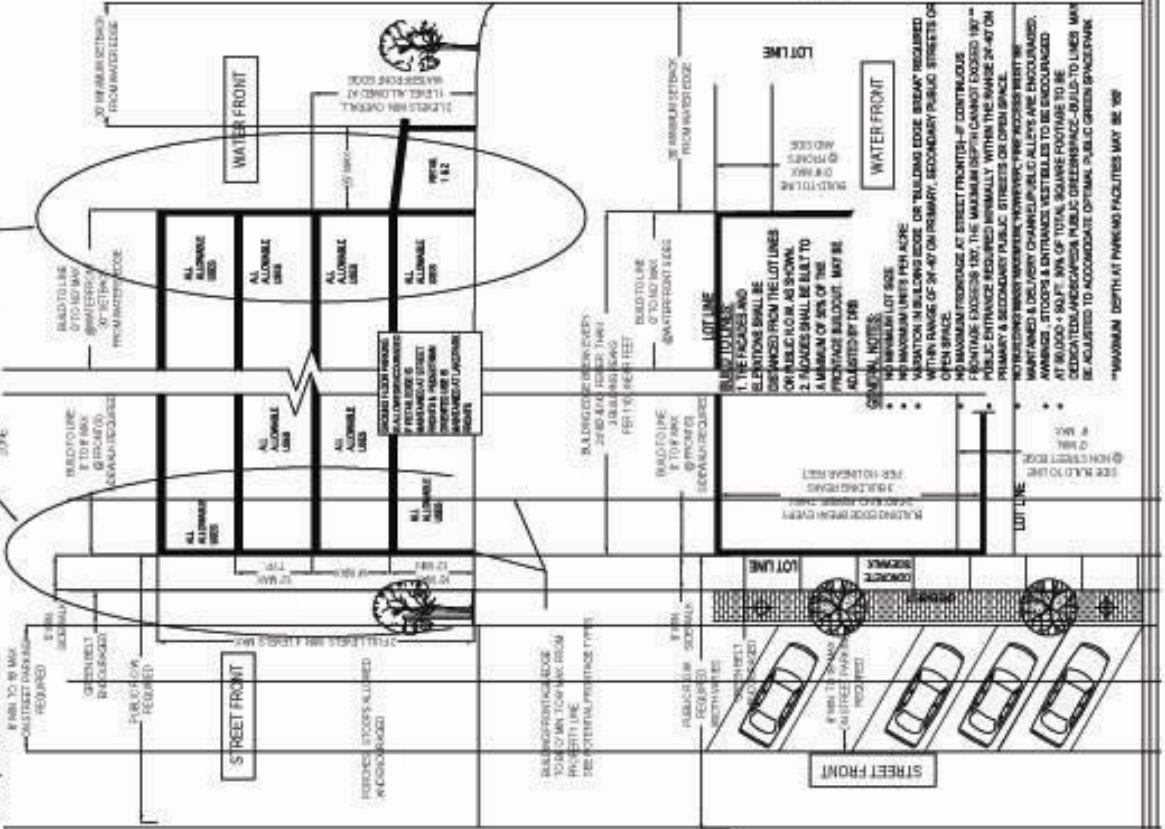
- 1 BENCH FOR EVERY 100 FEET OF FRONTAGE & 1 BENCH PER NON-RESIDENTIAL PROJECT MIN.
- 1 BENCH FOR EVERY 100 FEET OF FRONTAGE
- A MINIMUM OF 1 WASTE BIN FOR EVERY 200 FEET

211.05 FORM 5 URBAN WATER FRONT 2

BUILDING ENVELOPE STANDARDS

NOTE: THIS ZONE HAS 2 DISCRETE FRONTS

PURPOSE:
THE PURPOSE OF THIS ZONE IS TO CREATE A STREET ORIENTED PUBLIC REALM THAT ENCOURAGES A DENSE DOWNTOWN MULTI-USE/MULTI-PURPOSE BUILT ENVIRONMENT. THE BUILDING ENVELOPE SHALL BE ORIENTED TOWARD THE PEDESTRIAN FRIENDLY STREET SCAPE. PARKING (NOT INCLUDING ON STREET PARKING) SHOULD BE AWAY (OR HIDDEN) FROM THE STREET.



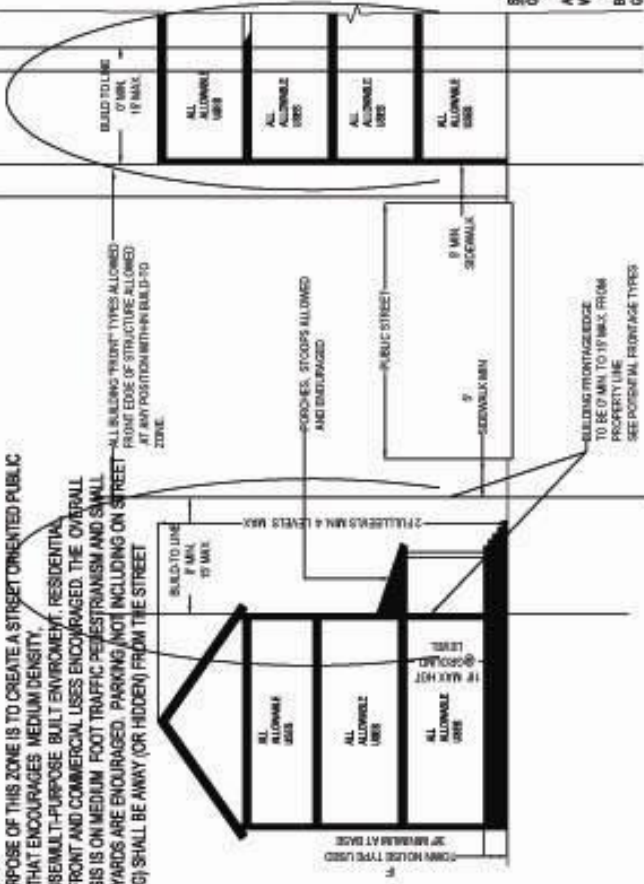
NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

USE TABLE	EXCLUDING USES THAT ARE NOT PERMITTED
1. RETAIL BOOKSTORE, VIDEO, CABARET, SEE DEFINITION	NOT PERMITTED
2. RELIGIOUS INSTITUTIONS * SEE DEFINITION	NOT PERMITTED
3. SCHOOLS * SEE DEFINITION	NOT PERMITTED
4. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC	NOT PERMITTED
5. RESTAURANT, NIGHTCLUB THRU.	NOT PERMITTED

*NOT PERMITTED ON GROUND FLOOR

- SPECIAL REGULATIONS**
- GROUND FLOOR STANDARDS**
 - A. ENTRANCE SHALL BE REQUIRED ON STREETS-PUBLIC ENTRANCE. CHANGE ONE (1) 1/2" TO 4" MAY-NOTE PUBLIC ENTRANCES MAY OCCUR AT INTERVALS LESS THAN 24'
 - B. NO LESS THAN 40% OF THE FACADE SHALL BE GLAZING
 - PARKING LOCATION STANDARDS**
 - A. NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS
 - B. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 100' FEET OF THE PROPOSED USE
 - C. PARKING SPACES MAY BE LEASED FROM THE CITY OR A PRIVATE LANDOWNER
 - D. PARKING SPACES MAY BE SHARED-SHARED PARKING IS ENCOURAGED
 - E. NEW PARKING SPACES EXCEPT ON STREET PARKING SHALL BE SCREENED FROM THE PUBLIC REALM (STREET OR PARK)
 - F. ALL NEW PARKING STRUCTURES SHALL MINIMUM BUILDING ENVELOPE STANDARDS-GROUND FLOOR USE RETAIL REQUIRED
 - STREETSCAPE STANDARDS**
 - A. ELEMENTS MUST BE CONSISTENT WITH A PROJECT.
 - B. UNPAVED GRADING AREA ALONG THE PROXIMATE SHALL BE PLANTED WITH GRASS/COVER ON A LANDING VEGETATION.
 - C. SIDEWALKS SHALL BE CONCRETE A MINIMUM OF 1 FEET WIDE. ALL OTHER REQUIREMENTS AS DETERMINED BY STREET STANDARDS-PER STREET DESIGNATION.
 - D. STREET FURNITURE SHALL INCLUDE BENCH FOR EVERY 50 FEET OF PROXIMATE 1 BENCH PER 100' FOR NON-RESIDENTIAL PROJECT MIN.

PURPOSE: THE PURPOSE OF THIS ZONE IS TO CREATE A STREET ORIENTED PUBLIC REALM THAT ENCOURAGES MEDIUM DENSITY, MULTI-USE MULTIPURPOSE BUILT ENVIRONMENT. RESIDENTIAL, STOREFRONT AND COMMERCIAL USES ENCOURAGED. THE OVERALL EMPHASIS IS ON MEDIUM FOOT TRAFFIC PEDESTRIANISM AND SMALL FRONT YARDS ARE ENCOURAGED. PARKING (NOT INCLUDING ON STREET PARKING) SHALL BE AWAY (OR HIDDEN) FROM THE STREET



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NOTE: ALL USES ARE PERMITTED EXCLUDING USES THAT ARE NOT PERMITTED.

USE TABLE	
1. ADULT BOOKSTORE, VIDEO, CABARET,	NOT PERMITTED
4. HEAVY INDUSTRY OR BUSINESSES THAT RELY ON A LARGE AMOUNT OF TRUCK TRAFFIC	NOT PERMITTED

SPECIAL REGULATIONS REGARDING FLOOR STAIRWAYS

- A. ENTRANCE SHALL BE REQUIRED ON PRIMARY STREETS-PUBLIC ENTRANCE <ONE PER 30' MIN WHEN APPLICABLE.
- B. NO LESS THAN 30% OF FACADE IN EACH DIRECTION (HORIZONTAL AND VERTICAL DIMENSION) SHALL BE GLAZING. EXAMPLE IF FACADE IS 30' WIDE THE TOTAL GLAZING WIDTH WILL BE NO LESS THAN 9'. SAME FOR HORIZONTAL DIRECTION.

PARKING LOCATION STANDARDS

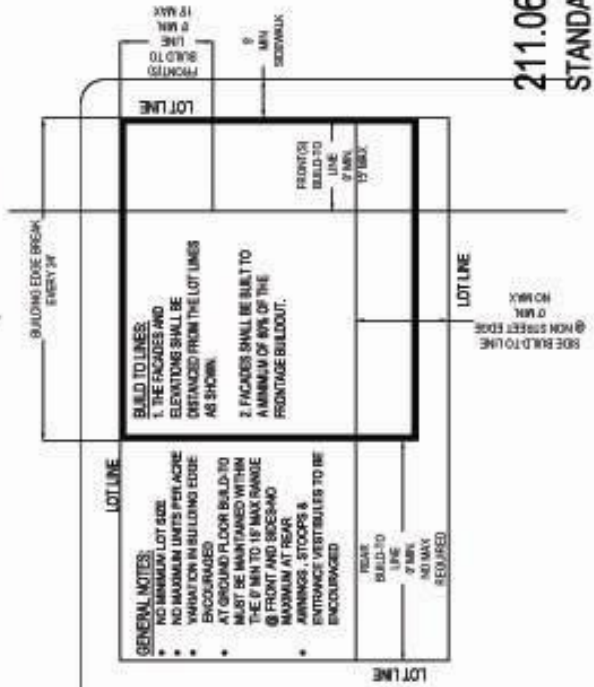
NEW CONSTRUCTION RESULTING IN ADDITIONAL SQUARE FOOTAGE OR AN INCREASE IN RESIDENTIAL UNITS MUST COMPLY WITH PARKING STANDARDS.

- A. PARKING SPACES MAY BE LOCATED OFF-SITE WITHIN 1,000 FEET OF THE PROPOSED USE.
- B. PARKING SPACES MAY BE LEASED FROM THE CITY OR A PRIVATE LANDOWNER.
- C. NEW PARKING SPACES SHALL BE SCREENED FROM THE PUBLIC REALM/STREET.
- D. NEW PARKING UNDER STRUCTURE ENCOURAGED.
- E. NEW PARKING IS ALLOWED IN SIDE YARD.

STREETSCAPE STANDARDS

ALL ELEMENTS MUST BE CONSISTENT WITH A PROJECT.

- A. STREET TREES SHALL BE PLANTED AT AN AVERAGE SPACING OF 30' ON CENTER.
- B. UNPAVED GROUND AREA ALONG THE FRONTAGE SHALL BE PLANTED WITH GROUND COVER OR FLOWERING VEGETATION.
- C. SIDEWALKS SHALL BE CONCRETE A MINIMUM OF 5 FEET WIDE. ALL OTHER REQUIREMENTS DETERMINED BY STREET STANDARDS PER STREET DESIGNATION.
- D. STREET FURNITURE SHALL INCLUDE:
 - 1. BENCH FOR EVERY 100 FEET OF FRONTAGE & 1 BENCH PER NON-RESIDENTIAL PROJECT MIN 1 BENCH FOR EVERY 300 FEET OF FRONTAGE.
 - 2. MINIMUM OF 1 MINUTE BM AT EACH BLOCK CORNER.



GENERAL NOTES:

- NO MINIMUM LOT SIZE
- NO MAXIMUM UNITS PER ACRE
- VARIATION IN BUILDING EDGE ENCOURAGED
- AT GROUND FLOOR BUILD-TO MUST BE MAINTAINED WITHIN THE 8' MIN TO 15' MAX RANGE
- FRONT AND SIDESHAD MAXIMUM AT REAR
- AIRINGS - STOOPS & ENTRANCE VESTIBLES TO BE ENCOURAGED

FRONT BUILT-TO LINE 0' MIN 15' MAX

NO MAX REQUIRED

211.06 FORM 6 RESIDENTIAL MIXED USE BUILDING ENVELOPE

STANDARD

BUILDING BREAK STANDARDS

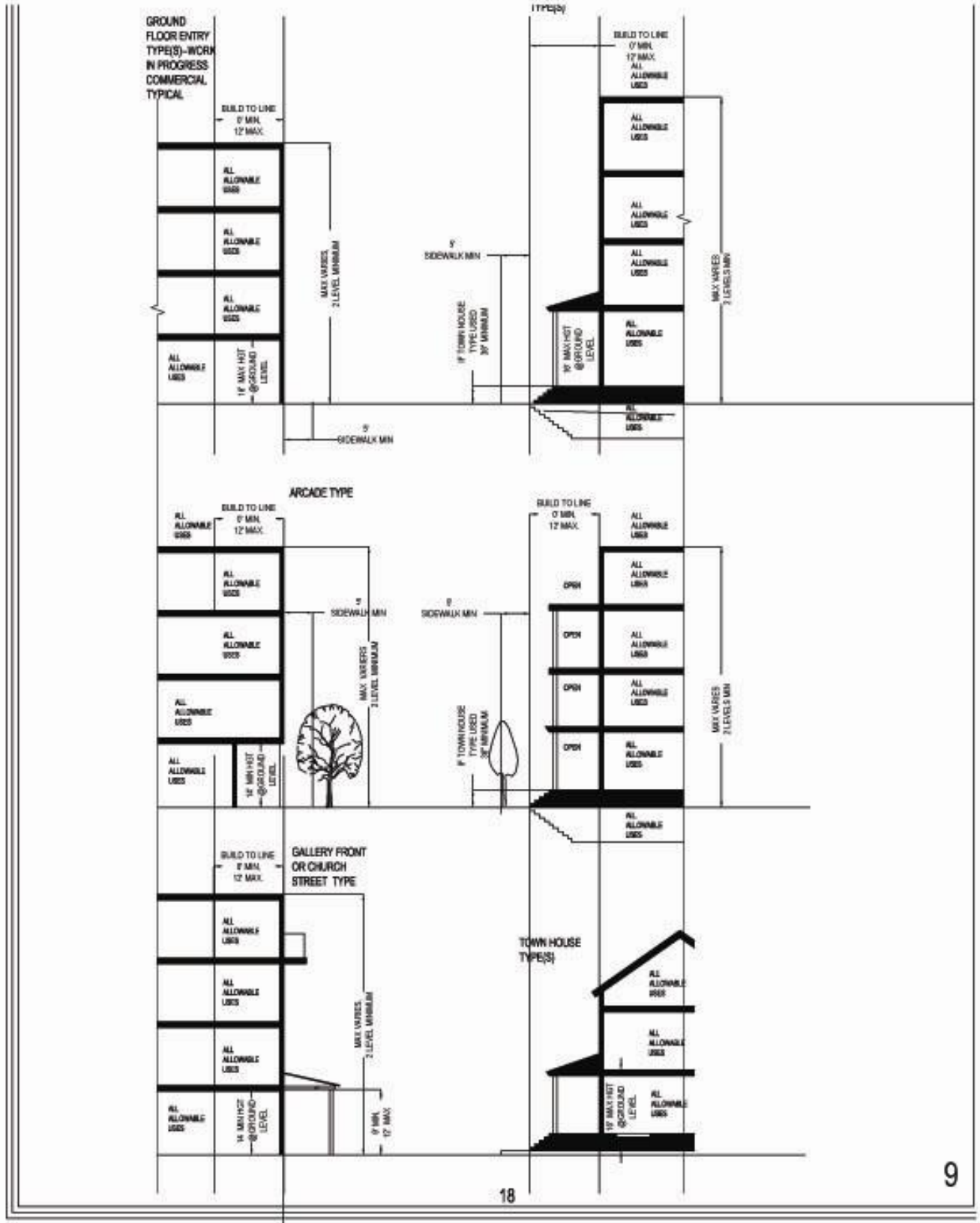
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STOREFRONT STANDARDS

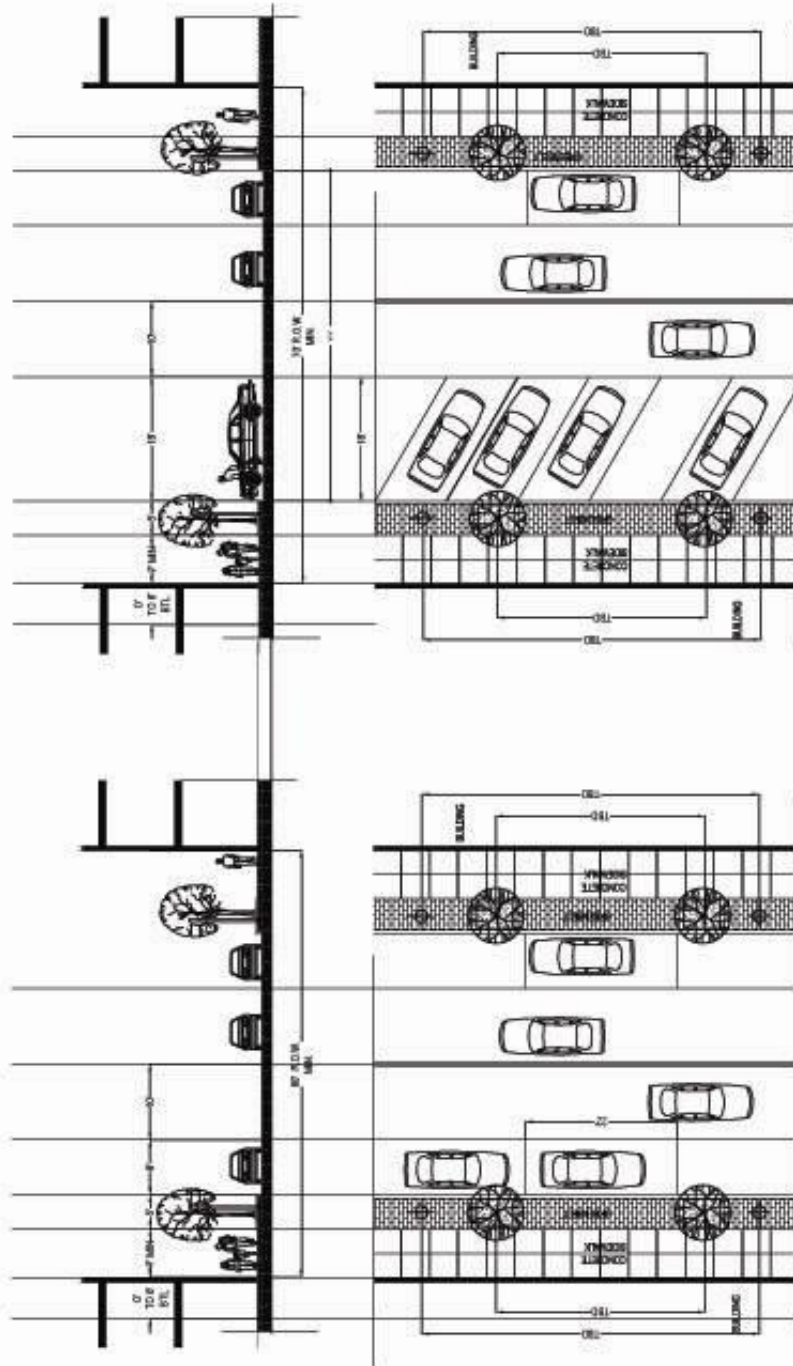
STOREFRONT STANDARDS					
STOREFRONT STANDARDS	CORE 1	CORE 2	CORE 3	URBAN WF (URBANWF 2)	PROP. IDENTITY (PROVIDENTIAL)
STOREFRONT HEIGHT (MAX)	8'-0"	8'-0"	12'-0"	21'-0"	12'-0"
PROJECTIONS	14'-0"	14'-0"	8'	14'-0"	8'
ARTICULATION	10'-0"	10'-0"	12'-0"	10'-0"	10'-0"
MIN. HEIGHT	2'-0" MIN.	2'-0" MIN.	2'-0" MIN.	2'-0" MIN.	2'-0" MIN.
MAX. HEIGHT	8'	8'	8'	8'	8'
MAX. WIDTH	8'	8'	8'	8'	8'

17 14

211.07 BUILDING BREAK & STOREFRONT FRONTAGE STANDARDS

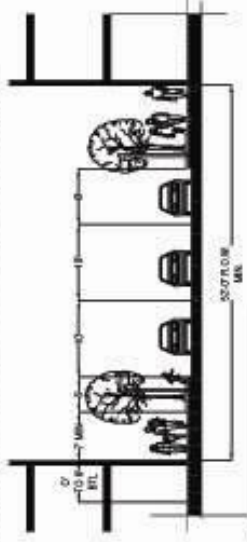


211.09 STREET TYPES &
STREET TYPE STANDARDS



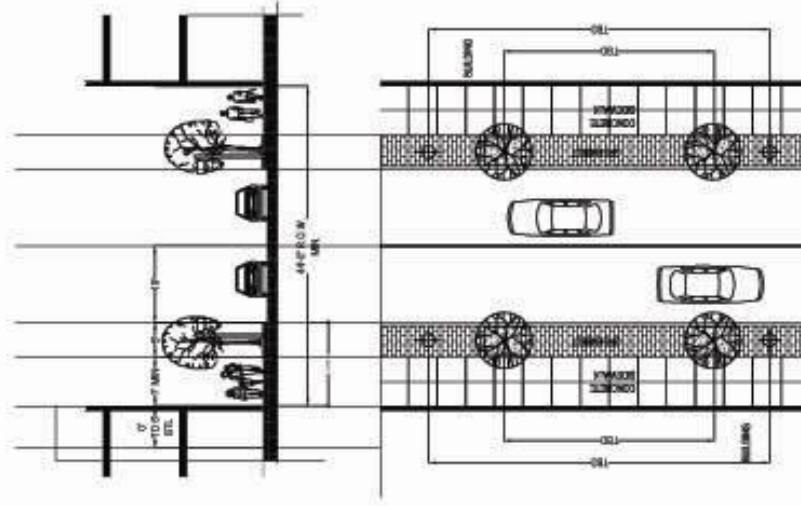
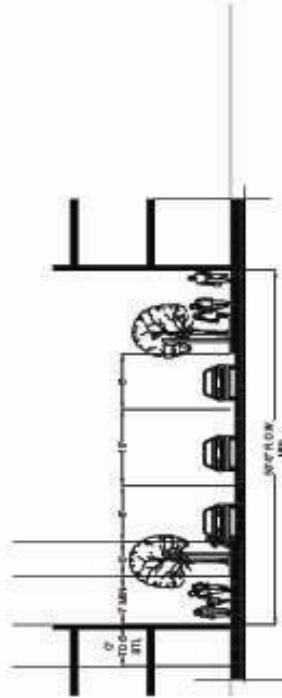
211.10 STREET TYPES & STREET TYPE STANDARDS

SECONDARY PUBLIC STREET TYPE 1
TWO WAY TRAFFIC, ONE SIDE ON STREET PARKING



20

SECONDARY PUBLIC STREET TYPE 2
ONE WAY TRAFFIC, TWO SIDE ON STREET PARKING
(BACKBAY BOSTON MODEL)

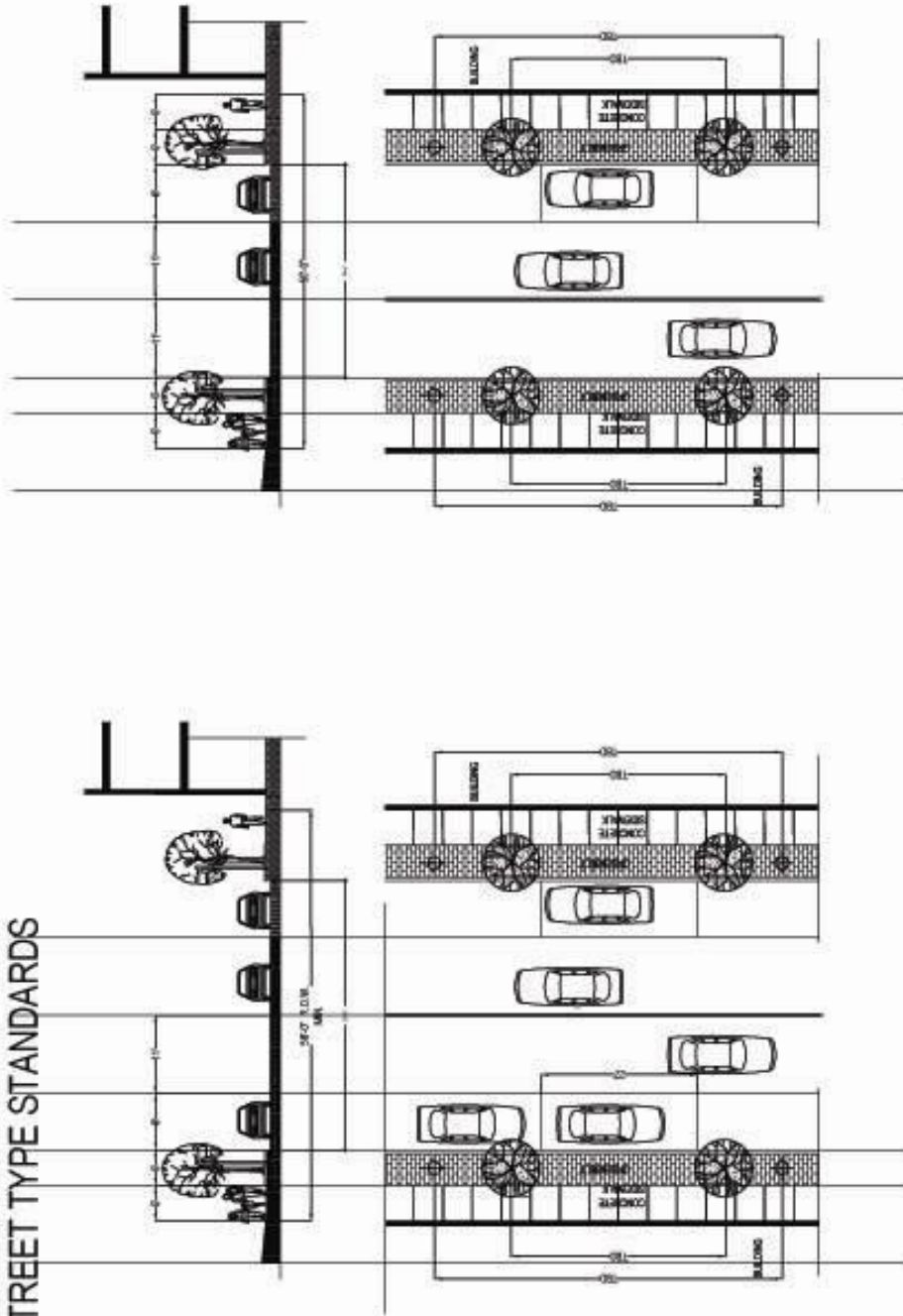


PRIMARY PUBLIC STREET TYPE 3
(DISCOURAGED)

11

20 11

211.11 PRIMARY TRANSIT
STREET TYPE 1, TYPE 2 &
STREET TYPE STANDARDS

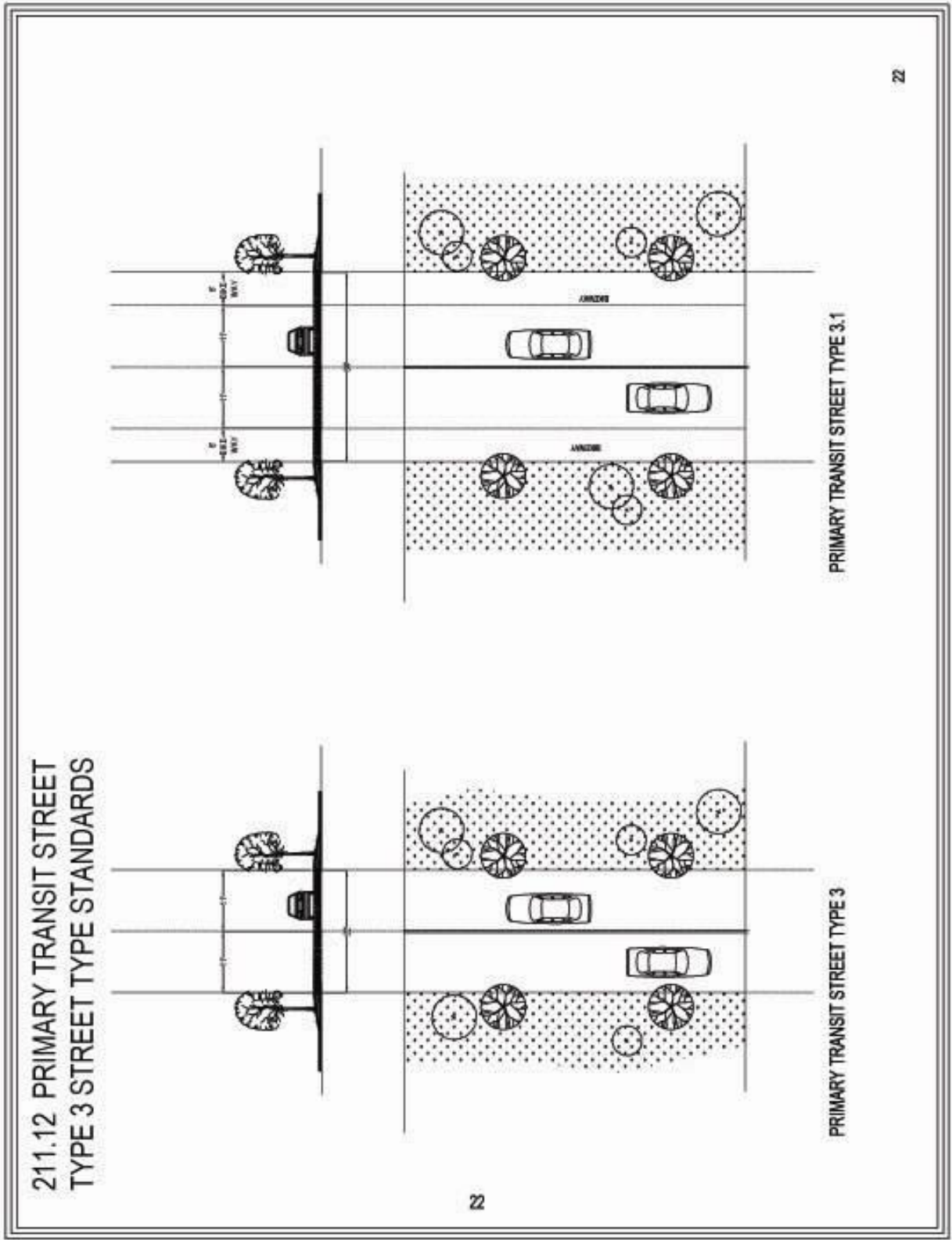


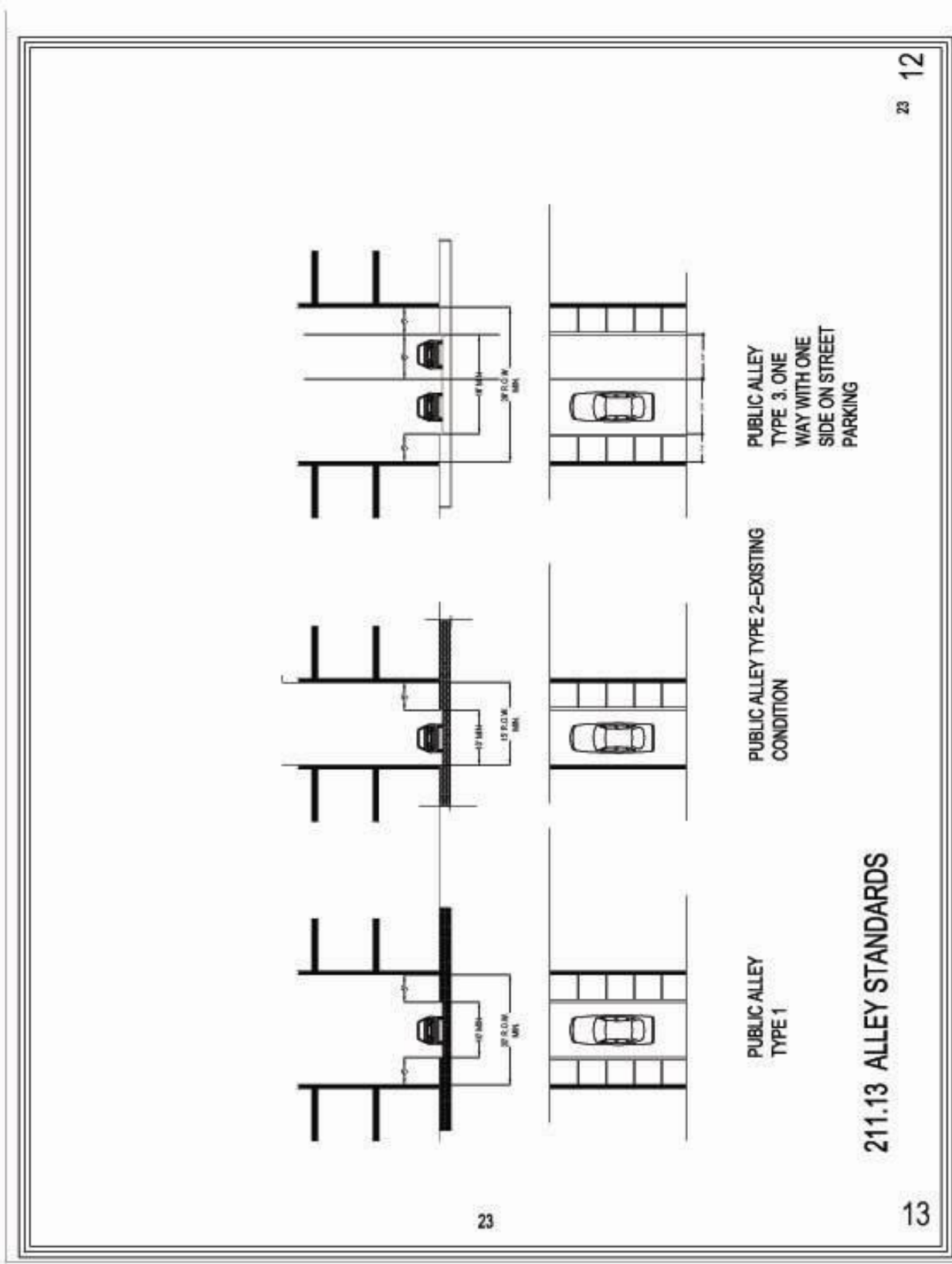
21

12

PRIMARY TRANSIT STREET TYPE 2
TWO TRAVEL LANES ON SIDE ON STREET PARKING

21 12





211.13 ALLEY STANDARDS

PUBLIC ALLEY
TYPE 1

PUBLIC ALLEY TYPE 2-EXISTING
CONDITION

PUBLIC ALLEY
TYPE 3-ONE
WAY WITH ONE
SIDE ON STREET
PARKING

ARTICLE 3: ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES--CONVENTIONAL CODE

§301 Establishment of Zoning Districts Conventional Zoning

Newport is hereby divided into the following Zoning Districts as shown on the City Zoning Map:

"CON"	Conservation District	"UR"	Urban Residential
"C-B"	Commercial Zone B	"LI"	Light Industrial
"GR"	General Residential	"U-REC"	Urban Recreational
"PHO"	Public Health/Office	"IND"	Industrial

§302 The general location and boundaries of zoning districts are shown on the reduced Zoning Map that is provided with this document. The Zoning District Boundaries as depicted on Newport City Tax Maps, located in the Zoning Administrator's Office, are the Official Zoning Maps and are hereby made a part of this bylaw.

§303 Interpretation of District Boundaries

- 303.1** All zoning district boundaries that are formed by roads shall be deemed to follow the road centerline.
- 303.2** All zoning district boundaries that are formed by railroads shall be deemed to follow the centerline of the main line.
- 303.3** All zoning district boundaries that are formed by natural bodies of water shall be deemed to follow the high water mark.
- 303.4** If uncertainty exists with respect to the location of any district boundary on the official Regulating Plan and Zoning Map, the Development Review Board shall determine the location of such boundary.

§304 Establishment of Conventional Zoning Districts

The following subsections describe the purpose of each district and delineate the permitted and conditional uses in that district as well as other specific district standards.

§304.01 Conservation District "CON"

Objective:

This district is designed to allow for open space and conservation uses. The areas that this district covers in the community are not served by adequate facilities and utilities, have subsoil conditions that cause problems in development, or should be conserved because of their scenic values in order to obtain the community's goal of keeping this an attractive community with adequate open space. A maximum density of development is permitted with one family per 25 acres.

Permitted Uses:

- | | |
|----------------------------|------------------------|
| 1. Accessory Apartment | |
| 2. Accessory use/structure | 6. Home occupation |
| 3. Agriculture | 7. Licensed Day Care |
| 4. Agribusiness | 8. Reservoir |
| 5. Dwelling, single-family | 9. Subdivision of Land |
| | 10. Wildlife refuge |

Conditional Uses:

- | | |
|-----------------------|---|
| 1. Boat Storage | 5. Personal wireless telecommunication facility |
| 2. Campground | |
| 3. Cemetery | 6. Recreation facility |
| 4. Essential services | 7. Recycling center |

Minimum Area and Dimensional Requirements:

Lot Area Minimum (ac ¹):	25
Lot Frontage Minimum (ft):	500
Lot Depth Minimum (ft):	400
Front Yard Minimum (ft):	100
Rear Yard Minimum (ft):	200
Side Yard Minimum (ft):	200
Coverage Maximum (% of lot):	
Recreation facility ²	30
All other uses	5
Building Height Maximum (ft) ³ :	
Accessory use/structure	25
All other uses	30

Footnote(s):

¹ 1 acre = 43,560 square feet.

² Coverage for recreation facilities shall include all land area covered by buildings, patios, and/or areas that have been graded for access roads or playing fields.

³ No height limit for agricultural uses.

304.02 General Residential District "GR"**Objective:**

This district is designed principally for residential development. Areas that it covers have either municipal water and sewer services available or are where the installation of these facilities on-site is feasible. Residential and other compatible and complementing uses are permitted in this district at densities dependent upon municipal water and sewer availability. This district is intended to house the majority of the community's permanent residents at densities consistent with the utilities provided.

Permitted Uses:

- | | |
|-----------------------------|---------------------------------------|
| 1. Accessory Apartment | 6. Dwelling, single family |
| 2. Accessory use/structure | 7. Home occupation |
| 3. Agribusiness | 8. Religious institution |
| 4. Bed and Breakfast | 9. Residential Short-Term Room Rental |
| 5. Condominium, residential | 10. School |
| | 11. Subdivision of Land |

Conditional Uses:

- | | |
|--|--|
| 1. Adult Day Care | 8. Essential services |
| 2. Assisted Living Facility | 9. Neighborhood store |
| 3. Campground | 10. Nursery school |
| 4. Licensed Day Care | 11. Personal wireless telecommunication facility |
| 5. Dwelling, multi-family ¹ | 12. Recreation facility |
| 6. Dwelling, two family ¹ | 13. Transitional Housing |
| 7. Elderly Housing | 14. Shelter |

Minimum Area and Dimensional Requirements:

Lot Designation ² :	A	B	C
Lot Area Minimum (sq ft):	10,000	30,000	40,000
Lot Frontage Minimum (ft):	100	100	100
Lot Depth Minimum (ft):	100	100	200
Front Yard Minimum (ft):	30	30	30
Rear Yard Minimum ³ (ft):	30	30	30
Side Yard Minimum (ft):	20	20	20
Coverage Maximum (% of lot):	25	25	25
Building Height Maximum (ft):			
Accessory use/structure	20	2025	
All other uses	35	3540	

Footnote(s):

¹ Minimum lot size for two-family and multi-family dwellings – 10,000 sq. ft. for a single residential unit, plus 2,000 sq. ft. for every additional unit, plus one sq. ft. for every sq. ft. increase in the building footprint.

² Lot Designation key:

A = public water **AND** sewer available;

B = public water **OR** sewer available;

C = on-site water **AND** sewer.

³ The rear yard minimum abutting a railroad track is 20 ft

304.03 Urban Residential District "UR"

Objective:

This district is designated for land located where municipal water and sewer facilities are available. For this reason, a higher density of development is appropriate. The purpose of this district is to permit a continuation and expansion of residential, commercial, light manufacturing, and related uses when consistent with the objectives of the comprehensive plan.

Permitted Uses:

- | | |
|-----------------------------|--|
| 1. Accessory Apartment | 11. Dwelling, two family ¹ |
| 2. Accessory use/structure | 12. Elderly Housing |
| 3. Assisted Living Facility | 13. Home occupation |
| 4. Adult Day Care | 14. Licensed Day Care |
| 5. Bed and Breakfast | 15. Nursery school |
| 6. Boarding House | 16. Religious institution |
| 7. Community center | 17. Residential Short-Term Room Rental |
| 8. Condominium, commercial | 18. School |
| 9. Condominium, residential | 19. Subdivision of Land |
| 10. Dwelling, single family | |

Conditional Uses:

- | | |
|--|--|
| 1. Agribusiness | 8. Nursing homes |
| 2. Auditorium | 9. Offices - Private or Public |
| 3. Campground | 10. Personal services |
| 4. Dwelling, multi-family ¹ | 11. Personal wireless telecommunication facility |
| 5. Essential services | 12. Public Buildings |
| 6. Light Manufacturing | 13. Recreation facility |
| 7. Neighborhood stores | 14. Transitional Housing |
| | 15. Shelter |

Minimum Area and Dimensional Requirements

	1 Family	Other Uses
Lot Area Minimum (sq ft):	8,000	12,000
Lot Frontage Minimum (ft):	80	100
Lot Depth Minimum (ft):	80	100
Front Yard Minimum (ft):	30	30
Rear Yard Minimum ² (ft):	20	30
Side Yard Minimum (ft):	20	20
Coverage Maximum (% of lot):	25	25
Building Height Maximum:		
Accessory structure	20	25
All other uses	35	50

Footnote(s):

¹ Minimum lot size for two-family and multi-family dwellings – 10,000 sq. ft. for a single residential unit, plus 2,000 sq. ft. for every additional unit, plus one sq. ft. for every sq. ft. increase in the building footprint, however; the 2000 sq. ft. additional lot size requirement per unit may be waived as long as parking requirements in Section 328 are met.

² The rear yard minimum abutting a railroad track is 20 ft.

³ Maximum lot coverage may be increased by 5% for each additional story to a building as long as the parking requirements in Section 328 are met.

304.04 Urban Recreational District "U-REC"

Objective:

This district is designated to take advantage of the attractive natural features of Newport, such as the lake adjacent to the urban core, where municipal water and sewer facilities are available. To complement this, compatible public and private, retail, recreational, and accessory uses are permitted.

Permitted Uses:

- | | |
|----------------------------|-------------------------|
| 1. Accessory Apartment | 10. Hotel |
| 2. Accessory use/structure | 11. Marina |
| 3. Auditorium | 12. Motel |
| 4. Bar | 13. Public assembly |
| 5. Boathouse | 14. Recreation facility |
| 6. Club | 15. Restaurant |
| 7. Community center | 16. Retail boutiques |
| 8. Condominium, commercial | 17. Subdivision of Land |
| 9. Home occupation | |

Conditional Uses:

- | | |
|--|--------------------------------------|
| 1. Boat Storage | 4. Dwelling, single family |
| 2. Condominium, residential | 5. Dwelling, two family ¹ |
| 3. Dwelling, multi-family ¹ | 6. Personal services |

Minimum Area and Dimensional Requirements:

Lot Area Minimum (sq ft):	5,000
Lot Frontage Minimum (ft):	50
Lot Depth Minimum (ft):	50
Front Yard Minimum (ft):	30
Rear Yard Minimum (ft):	0
Side Yard Minimum (ft):	0
Coverage Maximum (% of lot):	50
Building Height Maximum (ft):	35

Footnote(s):

¹ Minimum lot size for two-family and multi-family dwellings – 10,000 sq. ft. for a single residential unit, plus 2,000 sq. ft. for every additional unit, plus one sq. ft. for every sq. ft. increase in the building footprint.

304.05 Commercial Zone B District “C-B”

Objective:

The commercial zones east of the Causeway and Union Street have evolved into a mix of commercial and residential uses. The objective of this district is to preserve the character of these areas and to encourage the growth of both entities.

Permitted Uses:

- | | |
|----------------------------|-------------------------|
| 1. Accessory Apartment | 13. Parking Lot/Garage |
| 2. Accessory use/structure | 14. Personal services |
| 3. Banks | 15. Pet Services |
| 4. Bed and Breakfast | 16. Recreation facility |
| 5. Clinics | 17. Recycling center |
| 6. Condominium, commercial | 18. Restaurants |
| 7. Elderly Housing | 19. Retail businesses |
| 8. Essential services | 20. Retail boutiques |
| 9. Hotels | 21. Shopping Center |
| 10. Marina | 22. Subdivision of Land |
| 11. Motels | 23. Theaters |
| 12. Office | 24. Wholesale use |

Conditional Uses:

- | | |
|---|--|
| 1. Auditorium | 10. Licensed Day Car |
| 2. Auto sales/service | 11. Light Manufacturing |
| 3. Carwash | 12. Personal wireless telecommunication facility |
| 4. Clubs | 13. Public buildings |
| 5. Condominium, residential | 14. Religious institution |
| 6. Dwelling, Multi-Family ¹ | 15. School |
| 7. Dwelling, Single-Family ¹ | 16. Veterinary clinic |
| 8. Dwelling, Two-Family ¹ | 17. Warehouse ⁵ |
| 9. Gasoline Station | |

Minimum Area and Dimensional Requirements

	Residential	Other Uses
Lot Area Minimum (sq ft):	10,000	10,000
Lot Frontage Minimum (ft) ² :	100	100
Lot Depth Minimum (ft):	100	100
Front Yard Minimum (ft):	30	0
Rear Yard Minimum (ft) ³ :	20	0
Side Yard Minimum (ft) ⁴ :	20	0
Coverage Maximum (% of lot):	25	100
Building Height Maximum:		
Accessory structure	25	25
All other uses	72	72

Footnote(s):

¹ Minimum lot size for two-family and multi-family dwellings – 10,000 sq. ft. for a single residential unit, plus 2,000 sq. ft. for every additional unit, plus one sq. ft. for every sq. ft. increase in the building footprint.

² 135 ft when the lot line in question abuts a residential district.

³ Any building must have a minimum rear yard setback of 50 ft from any residential district.

⁴ Any building must have a minimum side yard setback of 35 ft from any residential district.

⁵ Warehouse (this does not include storage areas of businesses on the same premises) is not allowed on the ground floor of any building in the com-B Zone.

01-28-2019

304.06 Public Health/Office District "PHO"

Objective:

This district is designed to allow for the location of public health care facilities, religious institutions and educational facilities. Also permitted, with conditional use approval by the Development Review Board, are noncommercial residential structures that serve in an accessory capacity to the permitted uses.

Permitted Uses:

- | | |
|-----------------------------|------------------------------|
| 1. Accessory uses/structure | |
| 2. Adult Day Care | 7. Nursing homes |
| 3. Clinics | 8. Offices |
| 4. Condominium, commercial | 9. Parking Lot/Garage |
| 5. Hospitals | 10. Religious institutions |
| 6. Licensed Day Care | 11. Schools |
| | 12. Subdivision of Land |
| | 13. Assisted Living Facility |

Conditional Uses:

1. Dormitories¹
2. Personal wireless telecommunication facility

Minimum Area and Dimensional Requirements:

Lot Area Minimum (sq ft):	
12,000	
Lot Frontage Minimum (ft):	100
Lot Depth Minimum (ft):	100
Front Yard Minimum (ft):	30
Rear Yard Minimum (ft):	20
Side Yard Minimum (ft):	20
Coverage Maximum (% of lot):	30
Building Height Maximum (ft):	
Accessory use/structure:	25
All other uses:	72

Footnote(s):

¹ Must be accessory to permitted uses 3, 5, 7, 10, or 11.

304.07 Light Industrial District "LI"

Objective:

This district is designed to allow for the location of light industrial, office and warehousing types of uses that will not have a detrimental effect on surrounding residential land uses.

Permitted Uses¹:

- | | |
|----------------------------|-------------------------|
| 1. Accessory use/structure | 7. Light manufacturing |
| 2. Adult Day Care | 8. Office |
| 3. Clinic | 9. Parking Lot/Garage |
| 4. Condominium, commercial | 10. Subdivision of Land |
| 5. Condominium, industrial | 11. Warehouse |
| 6. Licensed Day Care | |

Conditional Uses

1. Veterinary clinic
2. Personal wireless telecommunication facility

Minimum Area and Dimensional Requirements:

Lot Area Minimum (sq ft):	
20,000	
Lot Frontage Minimum (ft) ² :	100
Lot Depth Minimum (ft):	150
Front Yard Minimum (ft):	50
Rear Yard Minimum (ft) ³ :	25
Side Yard Minimum (ft) ³ :	25
Coverage Maximum (% of lot):	40
Building Height Maximum (ft):	No maximum

Footnote(s):

¹ The following uses are expressly **PROHIBITED** within this district:

- On-site customer pickup except strictly in connection with wholesale.
- Buyer's clubs.
- Externally accessed individual lockers or individual storage units.
- External or unenclosed storage.
- Permitted use #4, warehousing, shall exclude the warehousing, wholesaling or bulk storage of volatiles.
- Boat or motor vehicle warehousing or storage.

² 175 feet when the lot line in question abuts a residential district.

³ Any building must have a minimum side and rear yard setback of 100 ft from any residential district.

304.08 Industrial District "IND"

Objective:

This district allows for the establishment of manufacturing employment opportunities in the community. An area must be provided for this type of development taking into consideration truck access and the availability of utilities. High-density employment activities should be concentrated in this area.

Permitted Uses:

- | | |
|------------------------------|---------------------------------|
| 1. Accessory use/structure | 9. Motor vehicle service/repair |
| 2. Car wash | 10. Office |
| 3. Condominium, industrial | 11. Parking Lot/Garage |
| 4. Contractor's yard | 12. Public buildings |
| 5. Essential services | 13. Subdivision of Land |
| 6. Freight/trucking terminal | 14. Veterinary clinic |
| 7. Gasoline station | 15. Warehouse |
| 8. Manufacturing | 16. Wholesale use |

Conditional Uses:

1. Hazardous waste management facilities
2. Other industrial, commercial and/or alternative education/apprenticeship uses (affiliated with industry and/or ancillary needs of the school system) upon the finding by the Development Review Board that such use is of the same general character as those permitted and which will not be detrimental to the other uses within the district or to the adjoining land uses. In the case of Planned Unit Developments, the Development Review Board shall make the determination on approved uses.
3. Personal wireless telecommunication facility
4. Regional solid waste management facilities
5. Shelter
6. Transitional Housing

Minimum Area and Dimensional Requirements:

Lot Area Minimum (sq ft):	40,000
Lot Frontage Minimum (ft) ¹ :	100
Lot Depth Minimum (ft):	150
Front Yard Minimum (ft):	50
Rear Yard Minimum (ft) ² :	25
Side Yard Minimum (ft) ² :	25
Coverage Maximum (% of lot):	60
Building Height Maximum:	
(a) Accessory use/structure	25
All other uses	72

Footnote(s):

¹ 175 ft when the lot line in question abuts a residential district.

² Any building must have a minimum side and rear yard setback of 100 ft from any residential district.

304.09 Shore Land Control District

In accordance with Title 24 VSA §4414 and §4424, the following special regulations are established for all development located within 1,000 feet of the high water level of Lake Memphremagog:

- A.** Sanitary Provision for areas not served by public sewers shall be in accordance with the adopted state regulations for individual subsurface sewage disposal systems.
- B.** A permit shall be required for the filling or grading of any wetland. Before a permit is issued, said application for the permit shall be reviewed by the Vermont Department of Water Resources.
- C.** All activity involving new or expansion of existing structures, new or expansion of cleared areas or impervious surfaces less than 250 feet from the shoreline in those portions of the General Residential District that are located within the Shore Land control District shall have all applicable State of Vermont and Army Corp of Engineers permits before a valid Zoning Permit can be granted.
- D.** No permit shall be issued until all State of Vermont and Army Corp of Engineers permits related to shore land development have been obtained. Failure of the developer to obtain all State and Army Corp of Engineers required permits automatically VOIDS all associated Newport City permits.
- E.** Nonresidential developments will require individual project permits and shall be required to obtain all applicable State of Vermont permits.

ARTICLE 4: GENERAL REGULATIONS

ARTICLE 4-A: General regulations that apply solely to “Conventional” code

§401 A Front Yard Setback.

Any yard bordering a public right-of-way shall be considered a front yard. Front yard setbacks are measured from the front lot line to the front of the building. See also the definition for Yard, Front in §902 of this bylaw.

§402 A Calculation Of Required Lot Area

When creating one or more lots, such lots shall be of sufficient area and dimensions to comply with the minimum lot area and dimensional requirements set forth in this bylaw for the district in which such lots are located. Existing or proposed rights-of-way or public sites shall NOT be included as part of a lot for the purpose of compliance with the minimum area and dimensional requirements.

§403 A Principal Uses On Lots

In the General Residential, Urban Residential, Conservation, and Public Health/Office zoning districts there shall be only one principal use or structure on a lot unless otherwise approved under the Planned Unit Development provisions §709.

§404 A Building Coverage

The ground area covered by all principal and accessory structures, including porches, decks, carports, garages, sheds and all other structures open at the sides but roofed shall be used when determining the percentage of building coverage of a lot.

§405 A Reduction Of Lot Area

No lot shall be so reduced in area such that the area, yards, lot width, frontage, coverage or other requirements of this bylaw shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

§406 A Required Area Or Yards

Space required under this bylaw to satisfy area, yard, or other open space requirements in relation to one building shall not be counted as part of a required open space for any other structure.

§407 A Lots With Frontage On More Than One Street

Any yard adjoining a street shall be considered a front yard for the purposes of this bylaw. However, only one front yard is required to comply with the minimum depth requirement. All other front yards shall either equal the minimum front yard setback, or be at least 25 feet in depth, whichever is less.

§408 A Projections Into required Yards.

Every part of a required yard shall be open from grade level to the sky unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys and eaves, provided that no such projections may extend more than two feet into any required yard.

§409 A Landscaping Requirements

Landscaping is required in all districts under this bylaw. It is to be installed and maintained in front, side and rear yards. It may take the form of shade trees, deciduous shrubs, evergreens, and well-kept grassed areas and ground cover.

All such landscaping shall be maintained in a healthy growing condition, with ground cover or grassed area.

The following are the minimum landscaping requirements:

- 409.01** Where any land use in a non-residential district abuts land in a residential district, a strip of land, at least 25 feet in width shall be maintained as a landscaped area in the front yard, side yards and rear yard which adjoin these other districts.
- 409.02** Where a non-residential land use in a residential district abuts any residential use, a strip of land at least 15 feet in width shall be maintained as a landscaped area in the front yard, side yards and rear yard which adjoin these uses. If a non-residential land use in a residential district abuts another non-residential use, under site plan review a strip of land may be required as a landscaped area between the properties.
- 409.03** In an industrial district each industrial lot or use shall have a strip of land at least 15 feet in width in the front yard and at least five feet in width in the rear and side yards which shall be maintained as a landscape and utility area. No landscape area is required where the use abuts property used for a railroad.
- 409.04** In any Planned Residential District as required by the Development Review Board.

ARTICLE 4-B:General regulations that apply to both FBC and “Conventional” code.

§401 B Low and Moderate Income Housing

This bylaw shall not have the effect of excluding low and moderate income housing.

§402 B Exemptions

402.01 Land development that shall not require a zoning permit is listed in §702.

402.02 Exterior steps, stairs, landings less than 25 square feet in area and handicap access ramps are exempt from the setback requirements set forth in §304 of this bylaw and may be erected without a permit.

§403 B Existing Small Lots

Any lot in existence prior to the enactment of the Newport City Zoning Bylaw on August 30, 1971 or legally subdivided since enactment that no longer conforms to minimum lot size requirements of the current Newport City Zoning Bylaw may be developed for the purposes permitted in the district in which it is located, provided that the lot is more than one-eighth acre in area and has minimum width and depth dimensions of at least 40 feet. Such lots shall NOT be deemed merged and MAY be separately conveyed even if they are in common ownership with a contiguous lot.

Lots that are less than one-eighth acre in area or have a width or depth dimension of less than 40 feet shall be deemed merged and may not be separately conveyed if they come under common ownership with a contiguous lot.

§404 B Required Frontage on, or Access to Public Roads or Waters

No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with site plan approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least 20 feet in width, in accordance with Title 24 VSA §4412. If, however, the land development is sufficient for two or more lots meeting the Minimum Area and Dimensional Requirements for the Zoning District in which the land development is located, the minimum width of the permanent easement or right-of-way shall be at least 50 feet.

§405 B Residential Homes

§405.01 Residential Care Homes: 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 VSA §4501, shall be considered to constitute a permitted single family residential use of property, except that no such home shall be so considered if it locates within 500 feet of another existing or permitted 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 VSA §4501, shall be reviewed as a multi family dwelling and shall be subject to conditional use and site plan review.

§406 B Shelter

Designed for individuals who are categorized as homeless or mothers with minor children. A shelter shall not consist of more than 5 family units. A family unit shall be defined as individuals or couples with minor children. A shelter shall be no closer than 1500 feet from another shelter measured from building to building. A shelter shall be viewed as a multi-family dwelling and shall be subject to conditional use and site plan review.

§407 B Transitional Housing

Designed for Individuals transitioning from incarceration to permanent residency for a period not to exceed 12 months. Transitional Housing shall be viewed as a single family dwelling and shall be subject to conditional use and a site plan review. No Transitional Housing unit shall be located within 1500 feet of a school measured from building to building. No Transitional unit shall be located within 1500 feet of another Transitional Housing unit measured from building to building.

§408 B Protection of Home Occupations

No provision of this 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 must obtain a permit from the Administrative Officer. Site plan review is not required for home occupations. A Registered Day Care is considered a home occupation.

Applications for home occupations must meet the following criteria in order to receive zoning permit approval. For those applications, which do not clearly meet these criteria, the Zoning Administrator shall refer to the Development Review Board for a ruling on whether an application qualifies as a home occupation:

- 408.01** The home occupation must be customary in residential areas, subordinate to residential purposes, and shall not change the character of the neighborhood.
- 408.02** The home occupation occupies a minor portion of the dwelling unit or is within an enclosed accessory structure.
- 408.03** The home occupation shall be carried on by members of the family and no more than one non-family employee is permitted.
- 408.04** The home occupation shall be conducted wholly within the principal building or accessory building and no exterior storage of goods, materials, equipment, or products shall be permitted .
- 408.05** 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.
- 408.06** Traffic generated by the home occupation shall be limited to a level and type, which would normally be expected in the neighborhood.
- 408.07** Parking shall be provided on site and in accordance with §422.12.
- 408.08** No exterior displays or signs or other advertising materials shall be permitted, except as allowed under §424.01

§409 B Special Public Use Exceptions -- Applies to both FBC and Conventional code.

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:

- State or community-owned and operated institutions and facilities.
- Public and private schools and other educational institutions certified by the state department of education.
- Churches and other places of worship, convents, and parish houses.
- Public and private hospitals.
- Regional solid waste management facilities certified under 10 VSA. Chapter 159.
- Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA §6606(a).

§410 B Lots In Two Zoning Districts

Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted part of such lot shall extend not more than 30 feet into the more restricted part, provided the lot has frontage on a street in the less restricted district.

§411 B Waterfront Lots

Waterfront lots may have a one-story boathouse for the sole purpose of boat storage, any portion extending past the high water mark must receive permission from the appropriate State and Federal agencies.

§412 B Location Of Driveways

All driveways accessing a public right-of-way, either new or redesigned, shall first be reviewed by the Director of Public Works with regard to location, grade, slope and drainage. This shall not apply to resurfacing.

§413 B Temporary Uses and Structures

Temporary permits may be issued by the Administrative Officer for a period not exceeding one year, for non-conforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period not exceeding one year.

§414 B Abandonment of Structures

Within six months after work on an excavation for a building has begun, or within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or fenced in accordance with §415B. All filling or regrading done in connection with this section shall first be approved by the Director of Public Works.

§415 B Fences Around Excavation

Excavations with slopes exceeding a one foot drop on a two foot run shall be protected from encroachment by a fence at least four feet in height of safe construction.

§416 B Obstruction Of Vision

In all districts on a corner lot, within the triangular area formed by the intersection of two street property lines and a third line joining them at points 25 feet away from their intersection, there shall be no obstruction to vision between the height of three feet and 10 feet above the average grade of each street.

§417 B Height Exceptions and Restrictions

- 417.01** Except within 3,000 feet of an aircraft landing strip, nothing herein contained shall be interpreted to limit or restrict the height of, church spires, cupolas, bell, clock, fire and observation towers, and essential public utility structures.
- 417.02** Under no circumstances shall radio towers or other obstructions be built in excess of 40 feet in height within 2,000 feet, or in excess of 80 feet in height within 3,000 feet of an aircraft landing strip.
- 417.03** No radio or television tower, water or cooling tower, oil or gas tank, elevator bulkhead, chimney, or other structures in excess of the principal building height maximum for the applicable zoning district may be erected unless approved by the Development Review Board as a conditional use.

§418 B Unlicensed Vehicle Storage In Residential Districts

In any residential district, unlicensed vehicles, and cars used for drag or stock car racing must be stored in an enclosed garage and shall not be parked in the front, side or rear yards.

§419 B Outdoor Swimming Pools and Tennis Courts

- 419.01** All below grade outdoor swimming pools shall be enclosed with a four-foot high fence so as to prevent accidental access to the pool. Above grade outdoor swimming pools four foot high or more must either be enclosed with a four-foot high fence or be equipped with a retractable ladder so as to prevent accidental access to the pool.
- 419.02** Contrary to the side and rear yard setbacks set forth in §307, outdoor tennis courts and below grade swimming pools may be constructed with a minimum side and/or rear yard set back of 5 feet. Accessory structures associated with pools and/or tennis courts shall comply with the setbacks set forth in §304.

§420 B Gasoline Stations

In all districts where permitted, gasoline or motor vehicle service stations, which may include mini-marts, shall comply with the following:

- 420.01** Gasoline stations shall not be located within 300 feet of any lot occupied by a school, hospital, library or religious institution.
- 420.02** Lot frontages shall be at least 150 feet.
- 420.03** Lot depths shall be at least 125 feet.
- 420.04** Fuel dispensers shall be located at least 25 feet from the front, side and rear lot lines.
- 420.05** All fuel and oil shall be stored at least 35 feet from any property line.
- 420.06** All automobile parts, dismantled vehicles and vehicles under repair are to be stored within a building.

§421 B Roadside Agricultural Stands

Temporary roadside stands for the sale of agricultural products raised on the property may be erected provided that:

- 421.01** No stand shall be in place between November 1st and April 30th.
- 421.02** No stand shall be nearer the front or side lot lines than 20 feet.
- 421.03** Off-street parking space shall be provided for at least two motor vehicles.

§422 B Off-Street Parking Space Requirements

- 422.01** Whenever an existing structure, other than a one or two family dwelling, is altered, extended or changed in use, or a new structure is erected on an existing foundation, the Development Review Board, under site plan review, shall review the existing and related parking arrangements and may require additional parking.
- 422.02** The Development Review Board may also require modifications to the width of the access driveway to the parking lot.
- 422.03** The number of parking spaces required for new structures being erected on lots not previously developed shall be determined from the table below. The driveway providing access to such parking lots, except one or two-family dwellings, shall be at least 20 feet in width.
- 422.04** Parking spaces shall be dimensionally adequate to contain the vehicle for which it is intended. For a private vehicle this dimension is nine feet by 20 feet. Under site plan review the Development Review Board may require larger dimensional parking spaces.
- 422.05** The parking arrangement shall permit the safe and convenient entry and exit from the parking space. The Development Review Board, under site plan review, shall review the proposed parking arrangement to ensure that this subsection of the bylaw is satisfied.
- 422.06** A parking space or parking lot shall comply with the landscaping requirements for the appropriate district.
- 422.07** With the approval of the Development Review Board parking spaces may be provided by the applicant on other property, provided such land lies within 1,000 feet of an entrance to the principal building.
- 422.08** Parking spaces for any number of separate uses may be combined in one parking lot, but the required space assigned to one use may not be assigned to another use at the same time of day with the approval of the Development Review Board.
- 422.09** Designated parking, restricted parking, and other notices shall be clearly provided by a sign or other marking and it shall be in compliance with section §424B.
- 422.10** All applications for permits wherein this bylaw requires a parking provision must include precise definition of parking to be provided; such as, a map drawn to scale of all related parking.
- 422.11** All applications with a parking provision requirement where parking is to be provided in an area of more than one business by utilizing existing or adjoining or nearby, within 100 feet, parking space(s); that is by:
 - sharing space(s)
 - extending or expanding space(s) and/or
 - creating new adjoining space(s)
 - must provide an Overall Adequacy of Parking Plan for all respective business and private users.

In Forms 1, 2, 3, 4, 5 no additional parking will be required to change the use of an existing building to a PERMITTED USE provided there is no increase to the square footage of the building. This provision shall not apply for change of use to motel or hotel.

Actual parking requirements appear on the next page.

422.12 Parking Table

- A. 1 for every 3 seats in assembly/dining room
- B. 4 for every 3 dwellings
- C. 1 for every 200 sq ft of floor area
- D. 1 for every 300 sq ft of floor area
- E. 1 for every employee on largest shift
- F. 1 for every lodging unit plus 5 additional
- G. 2 per dwelling unit

- H. 1 per business vehicle used
- I. 1.5 for every bed
- J. None required
- K. As required by the Development Review Board under Site Plan Review
- L. 1 for every boat slip
- M. 3 for every 2 campsites
- N. .4 for every 1,000 sq ft of floor area
- O. .1 per accessory apartment
- P. 0.6 per each living unit

USE & PARKING REQUIREMENT

- Accessory apartment.....O
- Accessory use/structure.....J
- Agribusiness.....C, E, & H
- Agriculture.....K
- Adult Day CareE
- Assisted Living Facility...P & E
- Auto sales/service.....K
- Banks.....C
- Bar.....A
- Bed & Breakfast.....I
- Boarding house.....K
- Boathouse.....L
- Bulk fuel storage.....H
- Campground.....M
- Car wash.....K
- Cemetery.....K
- Clinics.....C
- Clubs.....Greater of A or C
- Community Ctr. Greater of A or C
- Contractor's yard.....K
- Dormitory.....I
- Dwelling, multi-family.....B
- Dwelling, single family.....G
- Dwelling, two family.....G
- Elderly housing.....K
- Essential services.....K
- Freight/trucking terminal H & E
- Gasoline station.....K
- Hazardous waste facility.....K
- Home occupation.....D
- Hospitals.....E & I

USE & PARKING REQUIREMENT

- Hotel.....A, E, & F
- Licensed Day Care.....E
- Light Manufacturing.....H & E
- Manufacturing.....H & E
- Marina.....E, H, & L
- Motel.....A, E, & F
- Motor vehicle service/repair...K
- Neighborhood stores.....H & C
- Nursery school.....E
- Nursing homes.....I
- Office.....C
- Personal services.....C, E, & H
- Public buildings.....K
- PUD (Planned Unit Development).G
- Recreation facility.....K
- Recycling center.....H & C
- Regional solid waste facility. K
- Religious Inst Greater of A or C
- Reservoir.....J
- Restaurants.....A
- Retail boutiques.....C & H
- Retail businesses.....H & C
- Shopping center.....N
- School.....D & E
- Theaters.....A
- Veterinary clinic.....C
- Warehouse.....H & E
- Wholesale use.....C
- Wildlife refuge.....K

§423 B Off-Street Loading Space Requirements-- Applies to both FBC and Conventional code.

- 423.01** Whenever an existing structure, other than a one or two family dwelling, is altered, extended or changed in use, or a new structure is erected on an existing foundation, the Development Review Board, under site plan review, shall review the existing off-street loading space arrangements and may require additional off-street loading spaces. The Development Review Board may also require modifications to the width of the access driveway to the off-street loading spaces.
- 423.02** Every building hereafter erected for the purpose of business, trade or industry shall provide off-street space that is either paved or has some other stable surface for the loading and unloading of vehicles as set forth below:
- 423.03** Agribusiness and Restaurants: one (1) off street loading space for roof covered floor area equal to 20,000 sq. ft. and one more for each whole number multiple of 20,000 sq. ft. For example, 82,149 sq. ft. would require 4 off street loading spaces.
- 423.04** Motel, Hotel, Hospital and Clinic: one (1) off street loading space for roof covered floor area equal to 15,000 sq. ft. and one (1) more for each whole number multiple of 15,000 sq. ft.
- 423.05** Bulk Fuel Storage, Contractors Yard, Retail Business, Light Manufacturing and Recycling Center: one (1) off street loading space for roof covered floor area equal to 10,000 sq. ft. and one (1) more for each whole number multiple of 10,000 sq. ft.
- 423.06** Freight/Trucking Terminal, Manufacturing, Warehouse, and Wholesale use: one (1) off-street loading space for roof covered area equal to 7,500 sq. ft. and one (1) more for each whole number multiple of 7,500 sq. ft.

§424 B Signs-- Applies to both FBC and Conventional code.

A permit must be issued by the Administrative Officer prior to the installation of any sign. No signs shall be permitted in any district except as specifically permitted herein as follows:

- 424.01** Signs in residential districts. The following signs are permitted when located on the immediate property:
- A. One professional or home occupation sign, not exceeding four square feet.
 - B. One temporary Real Estate sign, not exceeding six square feet.
 - C. Signs identifying any non-residential building or use in residential districts, not exceeding a total of 20 square feet.
 - D. Directional or informational sign, not exceeding four square feet.
 - E. Signs necessary for public safety or welfare.
 - F. One sign to identify residential developments not to exceed 32 square feet.
- 424.02** Signs in commercial and industrial districts. The following signs are permitted when located on the immediate property:
- A. All signs permitted by §424B.
 - B. Signs not larger in total area than one square foot for each lineal foot of building frontage occupied by the establishment.
 - F. One directory sign not exceeding ten square feet in area.
- 424.03** Wall, projecting, ground and roof signs.
- A. Every wall and/or roof sign shall
 - 1. Not exceed the highest point of the building's roof by more than four feet.
 - 2. Not exceed 200 square feet in area.
 - B. Every projecting sign shall:
 - 1. Not extend more than four feet from the building wall.
 - 2. Not be less than 10 feet above the surface of a public walkway area.

- 3. Not exceed 32 square feet in area.
- C. Every ground sign shall:
 - 1. Not exceed 20 feet in height above the finished grade.
 - 2. Not exceed 32 square feet in area.
- 424.04** Computation of permissible sign area. When computing the total permissible sign area for any use:
 - A. Existing signs shall be included.
 - B. The total area of all signs shall not exceed the requirements as set forth in this bylaw.
 - C. Signs consisting of free standing letters, numerals or other device shall include any intervening spaces between them.
 - D. Only the larger face area of a double-faced or 90 degree v-type sign shall be used.
- 424.05** Traffic hazard, safety and obstruction. Every sign shall be designed and located in such a manner as to:
 - A. Not impair public safety.
 - B. Not restrict clear vision between a sidewalk and street.
 - C. Not be confused with any traffic sign or signal.
 - D. Not prevent free access to any door, window or fire escape.
- 424.06** Illuminated and flashing signs.
 - A. Signs may be illuminated by a steady light provided that such lighting will not illuminate or reflect onto other properties.
 - B. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.
- 424.07** Special signs. Special signs in regards to civic functions may be permitted upon approval of the legislative body (Newport City Council).
- 424.08** Special event, message and other temporary use signs shall be removed within three days following the end of the event.
- 424.09** Sandwich Board/Portable Signs - In the Commercial District sandwich board/portable signs not exceeding four (4) feet in height or three (3) feet in width or eight square feet in area are permitted subject to the following limitations:
 - A. Only one (1) sign is allowed per establishment and shall be strictly pertinent to the business operated on the premises.
 - B. The sign shall be placed:
 - 1. Abutting the building and shall allow a minimum walkway of 48 inches or
 - 2. Adjacent to City property, which abuts a City sidewalk with the approval of the City Council and shall allow a minimum walkway of 48 inches.
 - C. The sign shall be removed when the business is not open for business.
 - D. During snow removal operations the sign shall not be placed on the City Right-of-Way until the snow has been removed from the sign's location.
 - E. The sign shall be clean, in good repair, and in the opinion of the City Council, complementary to the overall appearance of the Commercial District.
 - F. Sandwich board/portable signs are excluded from the computation of permissible sign area in Section 424.02, 424.03 and Section 424.04.
 - G. Proof of adequate liability insurance must be submitted.

§425 B Performance Standards

- 425.01** In accordance with Title 24 VSA §4414(5), in all districts the following performance standards together with all applicable State standards must be met.

- 425.02** In all districts uses are not permitted which exceed any of the following standards measured at the individual property line:
- A. Emit noise in excess of 70 decibels.
 - B. Emit any odor, which is considered offensive.
 - C. Emit dust or dirt, which is considered offensive.
 - D. Emit any smoke, in excess of Ringlemann Chart No. 2.
 - E. Emit any noxious gases which endanger the health, comfort, safety or welfare of any person, or which have a tendency to cause injury or damage to property, business or vegetation.
 - F. Cause, as a result of normal operations, a vibration which creates displacement of 0.002 of one inch.
 - G. Lighting or signs that create glare, which could impair the vision of a driver of any motor vehicle.
 - H. Cause a fire, explosion or safety hazard.
 - I. Cause harmful wastes to be discharged into the sewer system, streams, or other bodies of water. Effluent disposal shall comply with the local and state sewer health standards.

§426 B Above Ground Storage of Flammable Liquids-- Applies to both FBC and Conventional code.

The storage of any highly flammable liquid or gas in above ground tanks with unit capacity greater than 550 gallons shall be prohibited, unless such tanks are placed not less than 80 feet from all property lines. All such tanks of more than 10,000 gallon capacity shall be placed not less than 200 feet from all property lines.

All tanks having a capacity greater than 550 gallons shall be properly retained with dikes having a capacity not less than one and one-half times the capacity of the tanks surrounded.

§427 B Animals

The raising or harboring of livestock, including, but not limited to horses, cattle, hogs, fowl or fur bearing animals, shall be prohibited within all districts unless the lot size is at least three acres.

Common household pets are exempted from these provisions provided that there are not more than four cats and/or dogs over six months old.

§428 B Extraction of Soil, Sand or Gravel-- Applies to both FBC and Conventional code.

In accordance with Title 10 VSA §6086 and Title 24 VSA §4410, in any zoning district the removal of soil, sand or gravel for sale, except when incidental to construction of a building on the same premises, shall be permitted only upon approval of a plan for the rehabilitation of the site by the Development Review Board. In any district, the following provisions shall apply:

- 428.01** Before approval of any new, or extension to an existing, sand or gravel operation, a performance bond shall be secured from the applicant sufficient to ensure that upon completion of the extraction operations the abandoned site will be left in a safe, attractive and useful condition in the interest of public safety and general welfare. The owner shall submit a plan of proposed improvements to accomplish this end. The bond shall be sufficient to cover the cost of redevelopment of the site as a park, lake recreation area or other usable open space.
- 428.02** The removal of all materials shall be conducted with due regard to the contours in the vicinity. The creation of slopes in excess of one foot drop on a two foot run shall not be permitted. The

digging of a pit is not permitted unless provision is made to refill such pits within a reasonable time period.

- 428.03** The excavation operation sites shall be graded smooth and left in a neat condition. Cut slopes and spoil banks shall not be allowed to remain. The operation site shall be fertilized, mulched and reseeded so as to establish a firm cover of grass or other vegetation sufficient to prevent erosion under the supervision and to the satisfaction of the Public Works Director.
- 428.04** All surface drainage affected by excavation operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Director of Public Works.
- 428.05** No excavation, blasting or stock piling of materials shall take place within two hundred feet of any street or other property line.
- 428.06** No power-activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust elimination devices.
- 428.07** All excavation slopes in excess of one on two shall be adequately fenced as determined by the Director of Public Works.

§429 B Filling of Land

All filling of land must be approved by the Director of Public Works in respect to finish grade, prior to approval by the Development Review Board. Any such filling of the land shall not cause adverse drainage effects to any other property owners. Acceptable fill material shall include the following:

- 429.01** Loam, rock, stone, gravel, sand, and soil.
- 429.02** Trees, stumps, yard waste, or wood chips, provide these materials originated on the same lot where they are proposed to be used as fill material.
- 429.03** Any other solid waste with the approval of the Agency of Natural Resources.
- 429.04** Approval from the Director of Public Works and the Development Review Board is not required for filling of land that, in the opinion of the zoning administrator, is incidental to one or two family construction projects.

§430 B Grading

Except under the rules governing the extraction of soil, sand or gravel (§428B), no grading, cut or fill shall be carried out in any district that leaves the slope of the finished grade in excess of one foot drop on a two foot run.

All surface drainage affected by grading operations shall be controlled by the owner to prevent erosion debris and other loose materials from filling any drainage course, street or private property. All provisions to control natural drainage water shall meet with the approval of the Director of Public Works, prior to approval by the Development Review Board. This section shall not apply to grading that, in the opinion of the zoning administrator, is incidental to one or two family construction project.

§431 B Screened Service Area Requirements

In any district all areas designated, used or intended to be used as service areas for any building or land use, other than one-family and two-family dwelling units shall be screened from view with either a wall, a solid

fence or a fence and evergreens to a height of at least five feet above grade level, on all sides where the adjacent land is in a residential district or residential use.

§432 B Fences, Walls and Hedges-- Applies to both FBC and Conventional code.

- 432.01** No zoning permit shall be required to erect, enlarge or alter a fence six feet high or less in any district. However the following shall apply
- A.** Fences six feet in height or less shall not be required to meet setback requirements for the district where located; however, the fence must be erected a minimum of three feet from the property line, must be kept structurally sound, and the finish face of the fence must face the exterior boundary. With a zoning permit and a joint application between abutting property owners, fences less than six feet in height or less may be erected with no set back from the property line and the finish face of the fence may face any direction.
 - B.** No fences over three feet in height above street grade shall be permitted within the triangle area formed by the intersection of two street right-of-ways and a third line joining them at points twenty-five feet away from their intersection
 - C.** No fences are allowed in any City Right-Of-Way
- 432.02** No zoning permit shall be required to erect, enlarge or alter a wall four feet high or less in any district. Walls over four feet high shall require a zoning permit and site plan review by the Development Review Board. However the following shall apply
- A.** Walls four feet in height or less shall not be required to meet setback requirements for the district where located; however, the wall must be erected a minimum of three feet from the property line and must be kept structurally sound. With a zoning permit and a joint application between abutting property owners, walls less than four feet in height or less may be erected with no set back from the property line.
 - B.** Walls shall be designed and located so as to not adversely affect the existing drainage pattern on any other property.
 - C.** No wall over three feet in height above street grade shall be permitted within the triangle area formed by the intersection of two street right-of-ways and a third line joining them at points twenty-five feet away from their intersection.
 - D.** No walls are allowed in any City Right-Of-Way
- 432.03** No zoning permit shall be required for hedges. However the following shall apply
- A.** No hedge over three feet in height above street grade shall be permitted within the triangle area formed by the intersection of two street right-of-ways and a third line joining them at points twenty-five feet away from their intersection.
 - B.** No hedges are allowed in any City Right-Of-Way

§433 B Flood Hazard Area Regulation

The purpose of inclusion of the Flood Hazard Area Regulations in this Bylaw is to:

1. Implement the goals, policies, and recommendations in the current municipal plan;
2. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
3. Ensure that the selection, design, creation, and use of development in hazard areas is reasonably safe and accomplished in a manner that is consistent with the public wellbeing, does not impair stream equilibrium, flood plain services, or stream corridor;

4. Manage all designated Special Flood Hazard Areas pursuant to 10 V.S.A. Chapter 32 Section 753, and the Municipal Hazard Mitigation Plan, such that the City of Newport, its Citizens, and businesses are eligible for Federal Flood Insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

433.01 These regulations shall apply to the Special Flood Hazard Areas for the City of Newport, VT, as described below. Special Flood Hazard Areas are identified in and on the most current flood insurance studies and maps published by the Department of Homeland Security , Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources (ANR) pursuant to 10 V.S.A. Section 753, which are hereby adopted by reference and declared to be part of this bylaw.

433.02 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 City of Newport zoning bylaw are permitted within an area of special flood hazard only upon the granting of a conditional use permit by the Development Review Board.

B. Prior to issuing a permit for the construction of new buildings, the substantial improvement of existing buildings, or for development in the floodway, a copy of the application shall be submitted by the municipality to the Agency of Natural Resources in accordance with Title 24 VSA §4424(2). A permit may be issued only following receipt of comments from the Agency, or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

C. Adjacent communities and the Agency of Natural Resources shall be notified at least 15 days prior to issuing any permit for the alteration or relocation of a watercourse 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.

433.03 Base Flood Elevations and Floodway Limits

A. Where available, i.e.; Zones A1-A30, AE, and AH, the base flood elevations and floodway 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 (see §433.01).

B. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program, i.e.; Zone A, base flood elevation and floodway information available from State or Federal agencies or other sources, shall be obtained and reasonably utilized to administer the provisions of these regulations.

433.04 Conditional Use Review Procedures

A. Upon receiving an application for a conditional use permit under these regulations, the Development Review Board shall, prior to rendering a decision thereon:

1. Obtain from the applicant;
 - 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 contains at least 50 lots or 5 acres (whichever is the smaller).
 - e. Such other information deemed necessary by the Development Review Board for determining the suitability of the site for the proposed development.
2. Obtain from the Vermont Agency of Natural Resources or other state or federal agencies any available base flood elevation data.
 - B.** In reviewing each application, the Development Review Board shall consider
 - a. evaluation of the Vermont Department of Water Resources.
 - b. The availability of alternative locations not subject to flooding for the proposed use.
 - c. The susceptibility of the proposed improvements to flood damages.
 - d. The safety of access to the property in times of flood of ordinary and emergency vehicles.
 - e. The potential for damage to the property caused by erosion.
 - f. The danger that materials may be swept onto other lands and cause damage to others.
 - g. Such other factors as are relevant to the purposes of this bylaw.
 - C.** The Development Review Board may grant a conditional use permit for development provided;
 1. All necessary permits are obtained from those governmental agencies from which approval is required by Federal or State law.
 2. The development standards of §433.03 are met or exceeded.

§433.05 Development Standards

A. Floodway Areas:

1. Development within the floodway is prohibited unless a registered professional engineer demonstrates and certifies, using hydrologic and hydraulic analysis performed in accordance with standard engineering practices, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood.
2. Junkyards and storage areas or facilities for floatable materials, chemicals, explosives, flammable liquids, or other hazardous or toxic materials, are prohibited within the floodway.

B. Special Hazard Areas:

1. All development shall be reasonably safe from flooding and be designed:
 - a. To minimize flood damage to the proposed development and to public facilities and utilities, and;
 - b. To provide adequate drainage to reduce exposure to flood hazards.
2. Structures shall be:
 - a. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure during the occurrence of the base flood;
 - b. Constructed with materials resistant to flood damage;
 - c. Constructed by methods and practices that minimize flood damage, and;
 - d. 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.

3. The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained.
4. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
5. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. The lowest floor, including basement, of all new structures including manufactured homes shall be at or above the base flood elevation.
7. Existing structures to be substantially improved for residential purposes shall be modified or elevated to meet the requirements of §433.05.(B)(6).
8. Existing structures to be substantially improved for non-residential purposes shall either:
 - a. Meet the requirements of §433.05(B)(6), 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.
9. All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be solely used for parking of vehicles, storage or building access and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two opening having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
10. Recreational Vehicles, as defined in Section 433.09 of this bylaw, must be fully licensed and ready for highway use.
11. Areas to be used for junkyards or for storage of floatable, hazardous or toxic materials are prohibited anywhere in a Special Flood Hazard Area or Floodway.

433.06 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.

433.07 Variances to the Development Standards. Variances shall be granted by the Development Review Board only:

A. In accordance with the provisions of Title 24 VSA §4469 and §4424(2)(E) and in accordance with the criteria for granting variances found in Title 44 CFR, §60.6, of the National Flood Insurance Program regulations;

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.

D. Any variance issued in the Special Flood hazard Area shall not result in an increase in Flood heights. The Zoning Administrator shall inform the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25.00 for each \$100.00 of coverage. Such notification shall be maintained with a record of all variance actions.

433.08 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 City of Newport or any official or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made hereunder.

433.09 Flood Hazard Area Definitions of Terms

“Accessory Structure” means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

“Area of Special Flood Hazard” is synonymous in meaning with the phrase “special flood hazard area” for the purposes of these regulations.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the “100-year flood”).

“Base Flood Elevation” (BFE) is the elevation of the water surface elevation resulting from a flood that has a 1 percent chance of equalling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or the average depth of the base flood, usually in feet, above the ground surface.

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

“BFE” see Base Flood Elevation

“Channel” means an area that contains continuously or periodic flowing water that is confined by banks and a streambed.

“Channel width” (or bank full width) is the width of a stream channel when flowing at a bank full discharge. The bank full discharge is the flow of water that first overtops the natural banks. This flow

occurs, on average, about once every 1 to 2 years.

“Common plan of development” is where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

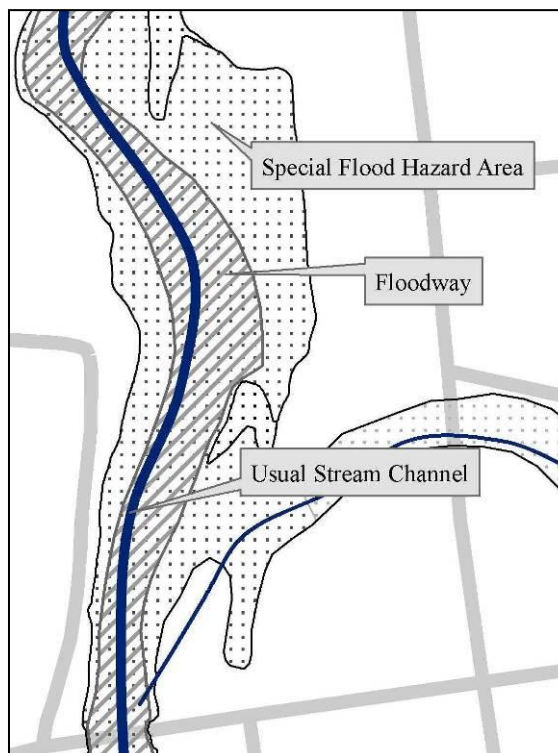
“Critical facilities” - include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station

“Development” means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Fill” means any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

“FIRM” see Flood Insurance Rate Map

“Flood” means (a) a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.



“Flood Insurance Rate Map” (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

“Flood Insurance Study” means an examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of “flood”).

“Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” 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 one foot at any point. Please note that Special Flood Hazard Areas and floodways may be shown on a separate map panels.

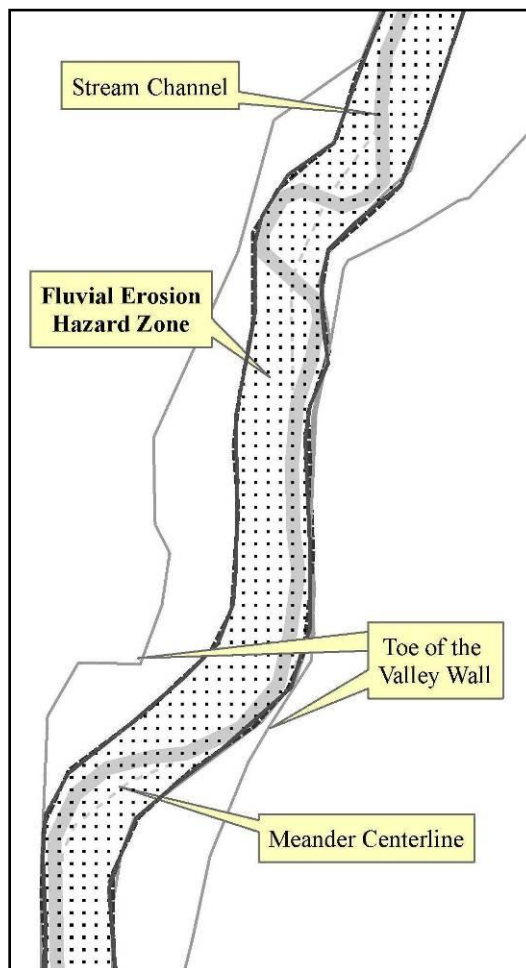
“Floodway, Regulatory in Newport, VT means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

“Fluvial Erosion” is erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

“Fluvial Erosion Hazard Zone” includes the stream and adjacent lands necessary to accommodate the slope and plan form requirements of a geomorphic ally stable channel and is subject to fluvial erosion as defined by the Vermont Agency of Natural Resources and delineated on the current Fluvial Erosion Hazard Zone Map.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

“Historic structure” means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a



registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

“Letter of Map Amendment (LOMA)” is a letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped special flood hazard area.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement, except 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 44 CFR 60.3.

“Manufactured home (or Mobile home)” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“New construction” for regulation under this bylaw, means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulation adopted by the community and includes any subsequent improvements to such structures.

“Nonconforming structure” means 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. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are not nonconforming structures.

“Nonconforming use” means 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.

“Nonconformity” means a nonconforming use, structure, lot, or parcel.

“Non-residential” includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

“Recreational vehicle” means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

“Special Flood Hazard Area” is the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A,

AE, AO, AH, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

“Start of construction” for purposes of floodplain management, determines the effective map or bylaw that regulated development in the Special Flood Hazard Area. The “start of construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

“Structure” means, for regulatory purposes under this bylaw, a walled and roofed building, as well as a manufactured home, and any related built systems, including gas or liquid storage tanks.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“Top of Bank” means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

“Violation” means the failure of a structure or other development to be fully compliant with this bylaw. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

§434 B Small Shed Exception-- Applies to both FBC and Conventional code.

Contrary to the side and rear yard setbacks set forth in §304, sheds with a footprint of 200 square feet or less and a building height of 15 feet or less may be constructed with a side and/or rear yard setback of as little as 5 feet provided that the shed is a minimum of 20 feet behind the building front line.

§435 B Boat Storage-- Applies to both FBC and Conventional code.

All boat storage yards shall be subject to the following regulations.

- 435.01** Shall be screened from view with either a fence or evergreen hedge at least 8 feet in height. Such screening shall be maintained in such a manner that they continue to serve the intended purpose.
- 435.02** access driveways within a boat storage yard shall be at least 25 feet in width, or wider if deemed necessary by the Development Review Board, to allow for the maneuvering of boat trailers and access by emergency vehicles.
- 435.03** Boats and boat accessories or materials shall not be allowed in any required setback.

§436 B Yard Sales-- Applies to both FBC and Conventional code.

Yard sales, garage sales, auctions, or similar activities that do not exceed three (3) consecutive days, or more than twelve (12) total days in any calendar year do not require a permit. All garage sales, yard sales, auctions, or similar activities that exceed twelve (12) total days in any calendar year shall be considered a retail business and an appropriate permit shall be required.

§437 B Personal Wireless Telecommunication Facilities-- Applies to both FBC and Conventional code.

- 437.01** Purposes: The purposes of this bylaw are to advance the objectives of the Newport City Municipal Plan, to protect the public health, safety and general welfare of the City of Newport, and to accommodate the communication needs of the community. This bylaw shall:
 - A. Provide standards and requirements for the operation, siting, design, appearance, construction, monitoring and removal of telecommunications facilities and towers.
 - B. Minimize tower and antenna proliferation by requiring the sharing of existing telecommunications facilities, towers and sites where possible and appropriate.
 - C. Facilitate the provision of telecommunications services to the community.
 - D. Minimize the adverse visual effects of telecommunications facilities and towers through careful design and siting standards.
 - E. Encourage the location of towers and antennas in non-residential areas and away from other sensitive areas such as those that have schools and child care facilities.
- 437.02** Authority: Pursuant to Title 24 VSA §4401 et seq. the Development Review Board of the City of Newport is authorized to review, approve, conditionally approve, and deny applications for wireless telecommunications facilities, including sketch, preliminary and final plans, and installation. Pursuant to Title 24 VSA §4440, the Development Review Board may, in accordance with procedures and standards established by the City Council, hire qualified persons to conduct an independent technical review of applications and require the applicant to pay for all reasonable costs thereof. All telecommunication facilities must comply with all Sections and Provisions of this Bylaw unless it is specifically stated within each Section of the Bylaw that it does not apply to the specific telecommunication facility proposed.
- 437.03** Consistency with Federal Law: In addition to other findings required by this bylaw, the Development Review Board shall find that its decision regarding an application is intended to be consistent with federal law, particularly the Telecommunications Act of 1996. The bylaw does not:
 - Prohibit or have the effect of prohibiting the provision of personal wireless services;
 - Unreasonably discriminate among providers of functionally equivalent services; or

Regulate personal wireless services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated services and facilities comply with the Federal Communications Commission (FCC) regulations concerning such emissions.

437.04 All personal wireless telecommunication facilities shall be considered a Conditional Use, except where specifically provided for in §437.06A, §437.06B, and §437.06C and prohibited in §437.05, and shall be designed to reduce, eliminate or disguise the negative visual impact by the use of camouflage, stealth design or other innovative measures.

437.05 Personal wireless telecommunication facilities are prohibited in the following locations.

A. Within any Urban Recreational zoning district.

B. No closer than fifty (50) feet horizontally to any neighboring building on a separate

lot.

C. Within five hundred (500) feet horizontally around the shoreline of Lake Memphremagog, for freestanding telecommunications towers only.

437.06 Personal wireless telecommunication facilities may be located as follows.

A. Personal wireless telecommunications facilities may be located on an existing or approved facility after site plan approval by the Development Review Board. All personal wireless telecommunication facilities located on an existing facility must comply with all permit conditions and requirements contained in the original permit for the existing site.

B. Personal wireless telecommunication facility(s) may be located on either the City owned Forest located off Highland Ave (Newport City Tax Map 134 Lot 78) or the City owned reservoir located off East Main Street (Newport City Tax Map 117 Lot 17) after site plan approval by the Development Review Board.

C. Personal wireless telecommunication facility(s) may be located in any Industrial (IND) zoning district after site plan approval by the Development Review Board.

D. If the applicant finds locations in §437.06(A, B, or C) are not feasible then personal wireless telecommunication facility(s) may be located in any location except those prohibited in §437.05.

437.07 Application Requirements for Personal Wireless Telecommunication: The property owner must be a personal wireless service provider or FCC licensee, or must provide a copy of its executed contract to provide land or facilities to such an entity, to the Administrative Officer at the time that an application is submitted. A permit shall not be granted for a tower or facility to be built on speculation.

In addition to information otherwise required in the City of Newport's Zoning Bylaws, applicants for wireless telecommunications towers or facilities shall include the following supplemental information:

A. The name and address of the applicant, the record landowners and any agents of the landowners or applicants as well as an applicant's registered agent and registered office. If the applicant is not a natural person, the name and address of the business and the state in which it is incorporated and has its principal office shall be provided.

B. The name, address and telephone number of the person to be contacted and who is authorized to act in the event of an emergency regarding the structure or safety of the facility.

C. A report from qualified engineers that:

1. Describes the facility height, design and elevation.

2. Documents the height above grade for all proposed mounting positions for antennas to be collocated on a telecommunications tower or facility and the minimum separation distances between antennas.

3. Describes the tower's proposed capacity, including the number, height and type(s) of antennas that the applicant expects the tower to accommodate.
4. Demonstrates that existing or approved telecommunications sites within 5 miles of the proposed site cannot reasonably provide adequate coverage and adequate capacity to the City of Newport. The documentation shall include the exact location, ground elevation, height of tower or structure, and sufficient additional data to allow the independent reviewer to verify that other locations will not be suitable.
5. Demonstrates that the applicant has analyzed the feasibility of using repeaters or micro-cells in conjunction with all facility sites to provide coverage to the intended service area.
6. Describes potential changes to those existing facilities or sites in their current state that would enable them to provide adequate coverage.
7. Describes the output frequency, number of channels, sector orientation and power output per channel, as appropriate for each proposed antenna.
8. Includes a written explanation for use of the proposed facility, including reasons for seeking capacity in excess of immediate needs if applicable, as well as plans for additional development and coverage within the City.
9. Provides assurance that at the proposed site the applicant will establish and maintain compliance with all FCC rules and regulations, particularly with respect to radio frequency exposure. Pursuant to Title 24 VSA §4440, the Development Review Board may, in accordance with procedures and standards established by the City Council, hire qualified persons to perform evaluations of compliance with the FCC regulations, standards and requirements on an annual basis at unannounced times and require the applicant to pay for all reasonable costs thereof.
10. Includes other information required by the Development Review Board that is necessary to evaluate the request. Includes an engineer's stamp and registration number, where appropriate.
11. A letter of intent committing the facility owner and his or her successors to permit shared use of the facility if the additional user agrees to meet reasonable terms and conditions for shared use.

D. For a facility to be installed on an existing structure, a copy of the applicant's executed contract with the owner of the existing structure (to be provided to the Administrative Officer at the time an application is submitted).

E. To the extent required by the National Environmental Policy Act (NEPA) as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the proposed facility.

437.08 Site Plan Requirements for Personal Wireless Telecommunication Facilities: In addition to site plan requirements found elsewhere in the Newport City Zoning Bylaws, site plans for wireless telecommunications facilities shall include the following supplemental information:

- A.** Location Map: a copy of a portion of the most recent USGS Quadrangle map showing the area within at least a two-mile radius of the proposed facility site.
- B.** Vicinity Map showing the entire vicinity within a 2500-foot radius of the facility site, including the facility or tower, topography, public and private roads and driveways, buildings and structures, water bodies, wetlands, landscape features, and habitats for endangered species. It shall indicate the property lines of the

proposed facility site parcel and all easements or rights-of-way needed for access from a public way to the facility.

- C. Proposed site plans of the entire development indicating all improvements including landscaping, utility lines, guy wires, screening and roads.
- D. Elevations showing all facades and indicating all exterior materials and color of towers, buildings and associated facilities.
- E. Computer generated photo simulations of the proposed facility showing the facility from various vantage points and adjoining property from which it may be visible. Each photo must be labeled with the line of sight, elevation and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
- F. In the case of a proposed site that is forested, the approximate average height of the existing vegetation within 200 feet of the tower base.
- G. Construction sequence and time schedule for completion of each phase of the entire project.

Plans shall be drawn at a minimum at the scale of one (1) inch equals fifty (50)

feet.

437.09 Collocation Requirements: Towers must be designed to allow for future placement of antennas upon the tower and to accept antennas mounted at varying heights when overall permitted height allows. Towers shall be designed structurally and in all other respects to accommodate both the applicant's antennas and additional antennas when overall permitted height allows.

437.10 Access Roads and Above Ground Facilities: Where the construction of new personal wireless telecommunications towers and facilities requires construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area. The City may require closure of access roads to vehicles following facility construction where it is determined that site conditions warrant the same and where maintenance personnel can reasonably access the facility site on foot.

437.11 Tower and Antenna Design Requirements: Proposed facilities shall not unreasonably interfere with the view from any public park, scenic view, or major view corridor. Height and mass of facilities shall not exceed that which is essential for the intended use and public safety.

- A. Towers, antennas and any necessary support structures shall be designed to blend into the surrounding environment through the use of color camouflaging and architectural treatment to create a compatibility with existing architecture, except in cases in which the Federal Aviation Authority (FAA), state or federal authorities have dictated color. Use of stealth design, including those that imitate natural features, may be required in visually sensitive locations.
- B. In order to protect public safety and to preserve the scenic character and appearance of the area, the height limit for towers, antennas and tower-related fixtures may be limited by the Development Review Board to a height necessary to provide adequate coverage in the City of Newport or to accomplish collocation of facilities. The height shall not cause an undue visual impact on the scenic character or appearance of the area.
- C. Towers, antennas and any necessary support structures shall be designed to avoid having an undue adverse aesthetic impact on prominent ridgelines and hilltops. In determining whether a tower's aesthetic impact would be undue and adverse, the Development Review Board will consider:

1. The period of time during which the proposed tower would be viewed by the traveling public on a public highway;
2. The frequency of the view experienced by the traveling public;
3. The degree to which the tower would be screened by existing vegetation, the topography of the land, and existing structures;
4. Background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
5. The distance of the proposed tower from the view point and the proportion of the facility that is visible above the skyline;
6. The sensitivity or unique value of a particular view affected by the proposed tower;
7. Significant disruption of a view corridor that provides context to a historic or scenic resource.

The Development Review Board shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed facility.

- D. All buildings and structures accessory to a tower (except for utility poles regulated by the State of Vermont) shall meet the minimum setback requirements of the underlying zoning district or setback requirements specified in this bylaw. If the minimum setbacks of the underlying zoning district are less than the height of the tower, including antennas or other vertical appurtenances, the minimum horizontal distance from the tower to any property line shall be no less than the height of the tower plus ten (10) feet, including antennas and other vertical appurtenances. Also the minimum horizontal distance from the tower to any building on an adjacent lot shall be no less than the height of the tower plus fifty (50) feet, including antennas and other vertical appurtenances.
- E. Ground mounted equipment or antennas as well as buildings and structures accessory to a tower shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better complements the architectural character of the surrounding neighborhood. A planted or vegetative screen shall be a minimum of ten feet in depth with a minimum height of six feet and shall have the potential to grow to a height of at least 15 feet at maturity. Existing onsite vegetation outside the immediate site for the wireless facility shall be preserved or improved. Disturbance to existing topography shall be minimized unless the disturbance is demonstrated to result in less visual impact on the facility from surrounding properties and other vantage points.

437.12 Amendments to Existing Personal Wireless Telecommunications Facility Permit: An alteration or addition to a previously approved wireless telecommunications facility shall require a permit amendment when any of the following are proposed:

- A. Change in the number of buildings or facilities permitted on the site;
- B. Addition or change of any equipment resulting in greater visibility or structural wind loading, or additional height of the tower, including profile of additional antennas, not specified in the original application.

437.13 Tower Lighting and Signage; Noise Generated by Facility: Unless required by the Federal Aviation Administration (FAA), no lighting of towers is permitted. In any case where a tower is determined to

need obstruction marking or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. Heights may be reduced to eliminate the need for lighting or another location selected.

No commercial signs or lettering shall be placed on a tower or facility. Signage shall be limited to that required by federal or state regulation.

The Development Review Board may impose conditions to minimize the affect of noise from the operation of machinery or equipment upon adjacent properties.

437.14 Temporary Wireless Communication Facilities: Any wireless telecommunications facility designed for temporary use is subject to the following:

- A. Use of a temporary facility is permitted only if the owner has received a temporary use permit from the City of Newport.
- B. Temporary facilities are permitted for no longer than five days use during a special event.
- C. The maximum height of a temporary facility is 50 feet from grade.
- D. Temporary facilities must comply with all applicable portions of these regulations.

437.15 Facility Removal: Abandoned, unused, obsolete, or noncompliant towers or facilities governed under this bylaw shall be removed as follows:

- A. Abandoned or unused towers or facilities shall be removed within 180 days of cessation of operations at the site unless a time extension is approved by the Development Review Board.

437.16 Maintenance Requirements: The Applicant shall maintain all facilities. Such maintenance shall include, but not be limited to painting, structural integrity and landscaping.

437.17 Insurance Requirements: The facility owner shall maintain adequate insurance on all facilities.

438 B Outdoor Waterstoves-- Applies to both FBC and Conventional code.

All outdoor waterstoves (otherwise known as outdoor wood burning furnaces) are prohibited within all zoning districts in the City of Newport.

439 B Disallowed Uses—Applies to Form Based Code and Conventional code

- 1. Medical marijuana dispensaries as permitted and defined by 18 V.S.A. Chapter 86 and regulated by the Vermont Department of Public Safety.

440 B Building Height-- Applies to both FBC and Conventional code.

- 1. Is the vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof.
- 2. Allowable building(s) height is specific to districts.
- 3. If allowed in a district, building heights in excess of 72 ft. shall be addressed for fire protection safety by the Newport City Fire Chief as part of the permit process. The developer shall be required to pay fees to cover upgrades needed or associated with the extra burden placed on the fire department for any fire protection costs.

ARTICLE 5: NONCONFORMITIES

In conformance with Title 24 VSA §4412(7), the following provisions shall apply to all nonconformities existing on the effective date of this bylaw.

§501 Nonconforming Uses

A nonconforming use is the utilization of land or structure for a purpose that is not currently authorized in the zoning district in which it exists, however, that use either existed before the establishment of the bylaws or was allowed under a previous bylaw version or was improperly authorized as a result of an error by the Zoning Administrator. Article 2 and Article 3 of this bylaw identify the uses that are currently permitted in each zoning district, as well as those uses that are authorized upon the granting of a conditional use permit.

501.01 A nonconforming use may be:

- A.** Continued indefinitely or
- B.** Converted to or restored to a conforming use or
- C.** Altered to include a second use that is similar to that currently maintained or
- D.** Changed to another nonconforming use provided that it is the same or a more restricted use or
- E.** Reestablished if it has ceased to exist or been discontinued for a period of less than one year for any reason.

A proposed alteration or a changing of a nonconforming use shall require the approval of the Development Review Board, which shall use the Conditional Use criteria in making their decision.

501.02 A nonconforming use may not be reestablished if:

- A.** It has ceased to exist or been discontinued for a period of one year or more for any reason or
- B.** It has been replaced by a conforming use.

501.03 Intent to reestablish a nonconforming use shall not confer the right to do so.

§502 Nonconforming Structures

A nonconforming structure is a structure or part thereof that is not in conformance with the current zoning regulations regarding building bulk, dimensions, height, area, yards, or density, where such structure or part thereof either existed before the establishment of the bylaws or was allowed under a previous bylaw version or that was improperly authorized as a result of an error by the Zoning Administrator.

502.01 A nonconforming structure, provided it is located outside of the Special Flood Hazard, may be:

- A.** Continued indefinitely or
- B.** Reestablished within the same footprint within one year of the date it was damaged or destroyed or deteriorated into an unusable condition, for any reason or
- C.** Increased in height, provided any increase is in compliance with the maximum building height for the district in which it is located or
- D.** Enlarged, altered, or extended provided any enlargement, alteration, or extension is in conformance with all applicable sections of the current bylaw or
- E.** With the approval of the Development Review Board, enlarged, altered, or extended provided any enlargement, alteration, or extension does not bring the building any closer to the property line causing the nonconformity. The Development Review Board shall use the Conditional Use criteria in making their decision.

- 502.02** A nonconforming structure shall not be:
- A.** Reestablished if, in the opinion of the Zoning Administrator, it has deteriorated into an unusable condition for a period of one year or more for any reason or
 - B.** Reestablished if, in the opinion of the Zoning Administrator, its existence has been discontinued for a period of one year or more for any reason or
 - C.** Reestablished if, in the opinion of the Zoning Administrator, it has been replaced by a conforming structure.
 - D.** Enlarged, altered, or extended if the enlargement, alteration, or extension is any closer to the property line causing the nonconformity.
- 502.03** Nonconforming structures may be maintained. Nothing in this section shall be deemed to prevent normal maintenance and repair of a nonconforming structure outside of the Special Flood Hazard Area, provided that such action does not increase the degree of nonconformity as determined by the Zoning Administrator. Structures located in a Special flood Hazard Area still need a permit and require substantial improvement determination.

ARTICLE 6: SUBDIVISION REGULATIONS-- Applies to both FBC and Conventional code.

GENERAL PROVISIONS

§601 APPLICABILITY

Any land development that would involve any of the following shall be subject to the subdivision regulations herein:

- 601.01** Subdivision of any tract of land into two or more lots (including leased lots) for the purpose of development or transfer of ownership.
- 601.02** Construction, extension or relocation of a road to serve more than two lots (including leased lots).
- 601.03** Boundary line adjustments.

§602 ADMINISTRATION AND ENFORCEMENT

602.01 The Development Review Board (hereinafter referred to as "DRB"), as authorized and empowered by Title 24 VSA Chapter 117 (hereinafter referred to as the "Act"), shall administer these subdivision regulations.

DRB may waive or vary the provision of any improvements or application submission requirements that in its judgment of the nature of the land or the project would be inappropriate and not requisite in the interest of the public health, safety and general welfare. In granting waivers, the DRB may impose such appropriate and reasonable conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of these Bylaws, the Newport City Plan or the Act.

Any decision of the DRB may be appealed to the Environmental Court as provided in Sections 4471 and 4472 of the Act. Violations of these Subdivision Regulations shall be subject to the penalties, remedies and enforcement procedures provided in Sections 4451 and 4452 of the Act.

§603 TWO-LOT SUBDIVISIONS

If a subdivider submits an application for the subdivision of a tract of land into no more than two lots, the Zoning Administrator may issue a two-lot subdivision permit to said subdivider upon the payment of the fee established by the City Council.

Prior to issuing a permit the Zoning Administrator will conduct an investigation that satisfies the following conditions:

That both lots meet the minimum dimensional requirements of the district/s in which the lots are located, if both lots of the subdivision cannot meet the minimum dimensional requirements of the districts in which the lots are located one lot shall meet the minimum requirement of the district and the other meet not less than 90% of said requirement.), that the structures located on such lots meet the setback requirements of the district/s in which the lots are located, And that the subdivider and the predecessors in title have not subdivided said tract of land within two years prior to the date of the application.

Any appeals of a two lot Subdivision permit will be made to the City of Newport DRB in accordance with section 4465 of the Act.

NOTE: A plat map must be stamped and signed by the Zoning Administrator and then filed in accordance with State Statutes by the subdivider within 180 days of the decision to issue the permit.

An industry standard digital file of the approved subdivision must be filed with the Assessor's office by the subdivider within 180 days of the decision to issue the permit. As statutory requirements change for filing documents with the City Clerks Office, it is recommended that the subdivider consult with the City Clerk for the proper documentation and filing requirements.

§604 BOUNDARY LINE ADJUSTMENTS

If a subdivider submits an application for a boundary line adjustment, the Zoning Administrator may issue a boundary line adjustment permit to said subdivider upon the payment of the fee established by the City Council. Prior to issuing a permit the Zoning Administrator will conduct an investigation that satisfies the following conditions:

- That no additional lots will be created that it involves no more than two lots,
- That it will not make complying lots non-complying,
- That it will not increase the non-conformance of any existing lot.

Any appeals of a Boundary Line Adjustment permit will be made to the City of Newport DRB in accordance with section 4465 of the Act.

NOTE: A plat map must be stamped and signed by the Zoning Administrator and then filed in accordance with State Statutes by the subdivider within 180 days of the decision to issue the permit. A An industry standard digital file of the approved boundary line adjustment must be filed with the Assessor's office by the subdivider within 180 days of the decision to issue the permit. As statutory requirements change for filing documents with the City Clerks Office, it is recommended that the subdivider consult with the City Clerk for the proper documentation and filing requirements.

§605 THREE OR MORE LOT SUBDIVISIONS

Conceptual Review

At the request of the applicant the DRB shall informally review a subdivision application. Any comments from the DRB shall be advisory and shall not be a decision binding on any party.

Sketch Plan Review

- A. Within thirty days after the receipt by the Zoning Administrator of a complete application by a subdivider (land owner/s or their authorized agent) the DRB shall schedule and hold a meeting to review the application.
- B. Each sketch plan application shall include as a minimum, but not limited to, the following information:
 - 1. Written Statement to include, as a minimum, the following:
 - a. Conformance to the City Plan.
 - b. Current use of land to be developed.
 - c. Easements, Covenants and or Zoning (Easements must be shown on sketch).
 - d. Existing and proposed restrictions on land.
 - e. Impact of the development on the community, i.e.: traffic, schools, water, sewer treatment, fire and police protection, etc.
 - f. Name and address of the owner of record of the tract to be subdivided and of all adjoining property owners.

NOTE: The Zoning Administrator shall be responsible for notifying adjoining property owners, as submitted by the applicant.

- g. Names and addresses of all participants with a financial interest in this development.

- h. A letter of authorization for the agent of the landowner/subdivider if other than the owner of record.
 - i. Rights-of-Way to property to be developed, i.e.: How rights-of-way from adjacent roads, developments, power lines, buried services, etc. affect property to be developed.
 - j. Waivers or variances requested.
2. Sketch Plan Drawings (with scale and north arrow) and description of:
- a. Key features of the site, including water courses (drainage), wetlands, significant topography (slopes, soil), open and wooded lands, and unique natural or cultural features and the manner in which such site elements are to be conserved, in what land use district/s project is located;
 - b. General type, layout and dimensions of lots (including leased lots), roads (roads servicing 3 or more lots must be built to existing City of Newport Public Works Standards and Specifications), utilities, drainage systems, streetlights, landscaping, existing and proposed restrictions on land (easement, zoning, etc.), screening to be planted or retained;
 - c. Designation of location for pedestrian walkway (i.e., sidewalks) must be indicated on the Sketch Plan;
 - d. General site location, in relation to public roads and the nearest intersections;
 - e. Boundaries and areas of all contiguous land of the owner(s) of record, and of the proposed subdivision.

The subdivider shall attend the meeting of the DRB on the sketch plan to discuss the proposal and the requirements of these Bylaws. The DRB shall study the sketch plan and may reasonably continue the sketch plan review to subsequent meetings in order to visit the site, consult with appropriate agencies, organizations and officials, and make recommendations to the subdivider regarding required improvements or changes needed for conformance with the zoning regulations herein. The DRB may reasonably require submission of such additional information as it deems necessary to determine conformance with these Bylaws, including but not limited to a property survey, contour map and engineering details of proposed improvements, by properly licensed professionals.

Within thirty days of conclusion of the sketch plan review process, the DRB shall issue and send its written decision to the applicant, either accepting the sketch plan as proposed, accepting it with stated conditions, or rejecting it.

Final Plan Approval

- C. Within 180 days of sketch plan approval, the subdivider shall submit his application for final plat approval to the DRB. A completed application shall include the proposed plat/s showing or accompanied by the following:
 - 1. Proposed subdivision title, name and address of the subject land and adjacent owners of record, subdivider and plat designer (including license numbers and seals), and the boundaries of the subdivision and its general location.
 - 2. A survey providing sufficient data to readily determine the location, bearing and lengths of all roads, lot and boundary lines on the ground, reference to established monuments.
 - 3. Location and design of all required improvements, easements and required open spaces proposed for common or public use, required screening of development, and proposed deeds, agreements or other documents relating to these; and
 - 4. Such other information, if any, required by the DRB in sketch plan approval; and description of requested waivers or variances from these regulations.
- D. Within thirty days of receiving a completed final plat application and fee, the DRB shall hold a

formal public hearing thereon. At least fifteen days prior to the hearing, public notice shall be given in accordance with sections 4463 and 4464 of the Act..

- E. At the public hearing, the DRB shall hear the presentation of the applicant and the testimony of all persons wishing to be heard. The Development Review Board shall consider the adequacy of the proposed plan, improvements and related aspects of the proposal, and shall find or require as a condition of approval, conformance with the standards and requirements set forth in §506 and §507 of these regulations.
- F. Within forty-five days after the public hearing (or any continuation thereof), the DRB shall approve the proposed plat as submitted, approve it with conditions attached, or reject it. A copy of the decision shall be sent to the applicant and to others who appeared, were heard at the hearing and requested notification, within such period.

Conditions of Final Plat Approval

- G. The DRB may, where it deems necessary and with the consent of the City Council, retain proper legal or engineering professionals to review deeds, agreements or plans, covenants, design and construction of required improvements, the cost of which professional review shall be paid by the subdivider.
- H. Final approval by the DRB shall not be deemed evidence of any acceptance by the City of any proposed road, easement, utilities, open space or other required public improvements shown on the final plat. Such acceptance may only be accomplished by formal resolution of the City Council.
- I. All roads, drainage, water, sewer, and other required improvements shall be provided and installed at the sole expense of the subdivider as a condition of plat approval and shall comply with all provisions of this zoning bylaw and the City of Newport Public Works standards and specifications in effect at the time of construction. The Development Review Board may require a performance bond/letter of credit to secure completion of such improvements and their maintenance for a period of two years, with a certificate from the City Council that it is satisfied either with the bonding or surety company, or with the security furnished by the subdivider. The amount and terms of the bond/letter of credit shall be determined by the Development Review Board, but in no case shall the terms run longer than three years. The bond/letter of credit shall be released only when the conditions have been satisfied in the judgment of the Development Review Board. In the event any required improvements have not been installed or maintained in accordance with the terms of the bond/letter of credit, such bond/letter of credit shall be forfeited to the City to install and maintain such improvements as are covered by the conditions of the bond/letter of credit.
- J. Final plat approval shall be effective for a period of one hundred eighty days from the date of the decision, as provided in Section 4463 of the Act. No plan may be filed or recorded in the City Clerk's Office except as prepared in accordance with the requirements under 27 V.S.A. Chapter 17, Section 1403, and as approved by endorsement of the DRB thereon, in accordance with its decision, and within such one hundred eighty day period.
- K. Mylar of the approved subdivision (along with a DXF diskette) is to be filed and recorded in the City Clerk's office by the subdivider within 180 days of the decision to issue the permit.

Miscellaneous Procedural Provisions

- L. If the DRB fails to act on a complete sketch plan or final plat application, or fails to render its final decision, within the prescribed time limits, such failure shall be deemed approval.
- M. The subdivider shall be required to reopen his application at the sketch plan level:
 1. If the sketch plan or final plat has been rejected by the DRB or
 2. If the subdivider fails to submit the final plat application within six months of the sketch plan approval; or

3. If any newly presented data differs substantially, in the judgment of the DRB, from the last agreed-upon or approved version. Any modifications by the DRB as a condition of approval must become part of the plat. All resubmitted data must be updated and accurate.
- N. All official submissions to the DRB must be signed and dated by the subdivider.
- O. All official dispositions of any sketch plans and final plats by the DRB must be signed and dated by the Chair or other authorized member of the DRB, by resolution and recorded in the minutes.
- P. The DRB may, at its discretion, hold one or more public informational meetings (to which the subdivider shall be invited) at any point between the sketch plan submission and the final plat public hearing for the purpose of obtaining public response to a proposed development
- Q. All required sketch plan, final plat and other official data submission to the DRB shall be submitted in the following manner: one original and seven(7) full size copies. All required data submissions, and the burden of proof under these regulations, shall be the responsibility of the applicant subdivider.

DEVELOPMENT STANDARDS

§606 GENERAL PLANNING STANDARDS

Land to be developed shall be physically suitable for the purpose with particular regard to the adequacy for on-site sewage disposal. Additional factors of the site to be considered include flood hazard, drainage, slopes, soils, and other natural conditions affecting its safe healthful use.

The proposed development should demonstrate due regard for the protection of existing trees, scenic points, brooks and water bodies and other natural and cultural features of the area.

The development scheme shall be compatible with adjacent uses and shall provide sufficient open space for recreation as well as safeguarding the privacy of the area inhabitants.

The proposed development shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads, nor shall it place an unreasonable burden on the ability of the City to provide educational or other public facilities and services. Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.

The proposed development shall be in conformance with the Newport City Plan, Zoning Bylaw and other Ordinances then in effect.

§607 REQUIRED IMPROVEMENTS AND DESIGN STANDARDS

Layout of lots shall be in conformance with the Zoning Regulations, and wherever feasible access onto side roads and minimize direct access to Highway Design of roads shall conform to City Council approved standards and shall be constructed logically in relation to the topography so as to produce safe intersections, grades and alignments, and adequate drainage. Wherever feasible, roads shall be laid out:

- A. To coordinate with existing and future appropriate development of adjacent tracts;
- B. To utilize intersections that provide a reasonable Level of Service (LOS) and safety; and
- C. To make driving through the development possible (i.e.: avoid long dead-end streets), but discouraging to through traffic in that portion of the City.
- D. To enable safe pedestrian and bicycle access and movements. Provisions for sidewalks and crosswalks may be required along through streets and other high traffic areas.

Water and Sewage Disposal Systems shall comply with all City Regulations. The DRB may require

that the proposed development be serviced by common or public water supply and sewage disposal systems, or that such systems be designed so that they may eventually be connected to municipal facilities.

Utilities including electric and telephone shall be laid out to coordinate with existing and future appropriate development of adjacent tracts. All utility easements shall be shown on the plat. Utilities including electric and telephone shall be underground unless otherwise approved by the DRB. Drainage Facilities shall comply with all City regulations and shall meet with the approval of the Director of Public Works. Adequate provision shall be made to minimize erosion during and after construction. All drainage system easements shall be shown on the plat.

Vegetation such as trees and shrubs shall be retained or shall be reasonably required by the DRB for screening and aesthetic purposes. Vegetated buffers along stream banks are to be maintained or enhanced as required by the DRB for filtration, erosion control as well as for aesthetic purposes.

Open Space for recreation, pedestrians, or other public or common use pursuant to Section 4417(5) of the Act may be required by the DRB. All such spaces shall be shown on the plat.

Soil stability shall be maintained by the use of proper erosion and sediment controls during and after construction, as approved by the DRB.

ARTICLE 7: ADMINISTRATION AND ENFORCEMENT-- Applies to both FBC and Conventional code as noted.

§701 Administrative Officer (Zoning Administrator)

The City Council shall appoint an Administrative Officer from nominations submitted by the Planning Commission for a term of three (3) years in accordance with Title 24 VSA §4448. The City Council may remove an Administrative Officer for cause at any time after consultation with the Planning Commission.

An acting Administrative Officer may be appointed by the City Council, 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. In the event an acting Administrative Officer is appointed, the City Council shall establish clear policies regarding the authority of the Administrative Officer relative to the authority of the acting Administrative Officer.

The Administrative Officer shall literally administer and strictly enforce the provisions of these regulations, and in doing so shall inspect development, maintain records, and perform other related tasks as is necessary and appropriate.

In addition, the Administrative Officer shall coordinate the municipality's development review programs. If other municipal permits or approvals are required, the Administrative Officer shall provide the applicant with necessary forms. The Administrative Officer may also inform any person applying for municipal permits or authorizations that they should contact the Vermont Agency of Natural Resource's Regional Permit Specialist to assure timely action on any related state permits. The applicant retains the obligation to identify, apply for, and obtain relevant state permits.

Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board and/or state for consideration. In accordance with Title 24 VSA §4448, §4449, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.

§702 Zoning Permit and Certificate of Occupancy

No land development as defined herein, which is subject to these regulations, shall be commenced in the City of Newport until a zoning permit has been issued by the Administrative Officer, as provided for in Title 24 VSA §4448, §4449, §4416 & §4464(c). *It is unlawful to use or occupy or permit the use or occupancy of any land, structure or part thereof until a certificate of occupancy is issued therefore by the Administrative Officer, stating that the proposed use of the structure or land conforms to the requirements of this bylaw, as provided for in Title 24 VSA Section 4449(a)(2).*

702.01 Exemptions

No zoning permit shall be required for the following activities:

- A. Accepted agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, in accordance with Title 24 VSA §4413(d). Written notification, including a sketch plan showing structure setback distances from road rights-of-way, property lines, and surface waters shall be submitted to the

Administrative Officer prior to any construction, as required for accepted agricultural practices. Such structures shall meet all setback requirements under these regulations, unless specifically waived by the Secretary.

- B. Accepted management practices for silviculture (forestry) as those practices are defined by the Commissioner of Forests, Parks and Recreation, in accordance with Title 24 VSA §4413(d).
- C. Power generation and transmission facilities, which are regulated under Title 30 VSA §248 by the Vermont Public Service Board. Such facilities, however, should conform to policies and objectives specified for such development in the Municipal Plan.
- D. Hunting, fishing, and trapping as specified under Title 24 VSA §2295 on private or public land. This does not include facilities supporting such activities, such as firing ranges or rod and gun clubs, which for the purposes of these regulations are defined as recreation facilities.
- E. Normal and routine maintenance of an existing structure which does not result in exterior alterations or expansion or a change of use.
- F. Interior alterations or repairs to a structure which do not result in exterior alterations or expansion or a change in use. Change in use means a change in the use of the property as a whole. Structures located in a Special flood Hazard Area still need a permit and require Substantial Improvement determination.
- G. Entry stairs (excluding decks and porches), handicap access ramps, landings less than 25 sq ft, bulkheads, and walkways unless located in a Special Flood Hazard Area.
- H. Minor grading and excavation associated with road and driveway maintenance (e.g., including culvert replacement and resurfacing), and lawn and yard maintenance (e.g., for gardening or landscaping), or which is otherwise incidental to an approved use. This specifically does not include extraction and quarrying activities regulated under §428 B §429 B and §430 B § or changes in contours which result in new drainage patterns and properties located in a Special Flood Hazard Area.
- I. Small detached accessory buildings associated with residential uses which are less than 64 square feet of floor area and less than twelve (12) feet in height, and are not located within required setback areas or in a Special flood Hazard Area.
- J. Garage sales, yard sales, auctions, or similar activities that do not exceed three (3) consecutive days, nor more than twelve (12) total days in any calendar year. All garage sales, yard sales, auctions, or similar activities that do exceed twelve (12) total days in any calendar year shall be considered a retail business and an appropriate permit shall be required.
- K. Firewood sheds that are used EXCLUSIVELY for protecting split and blocked firewood from the elements unless the property is located in a Special Flood Hazard Area.
- L. Temporary carports/garages, provided that every fall they are erected no sooner than October 15th and every spring they are dismantled no later than May 15th.
- M. Highway signs regulated by the State.
- N. All onsite equipment needed for the customer's personal use to communicate with a wireless service.

702.02 Application Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the City Council, also shall be submitted with each application. In addition, the following information will be required as applicable:

- A. All applications shall include a sketch plan, no smaller than 8.5" x 11", drawn to scale, that depicts the following when applicable:
 1. the dimensions of the lot, including existing property boundaries,

2. the location and footprint of existing and proposed structures or additions,
 3. the location of existing and proposed accesses (curb cuts), driveways and parking areas,
 4. the location of existing and proposed easements and rights-of-way,
 5. setbacks from property boundaries, road rights-of-way, surface waters and wetlands,
 6. the location of existing and proposed water and wastewater systems, and
 7. other such information as required by the Administrative Officer to determine conformance with these regulations.
- B.** Uses Subject to Development Review. For development requiring one or more approvals from an Development Review Board prior to the issuance of a zoning permit, application information and fees as required for such approvals shall be submitted concurrently with the application for a zoning permit and referred to the Secretary of the Development Review Board. The applicant shall include a list of the names and addresses of all adjoining property owners, without regard to any public right-of-way.
- C.** Flood Hazard Area Approval. Any application for development within the Flood Hazard Area Overlay District shall include copies of application information as required for referral to the Vermont Agency of Natural Resources in accordance with Title 24 VSA §4424(D).

702.03 Issuance

A zoning permit shall be issued by the Administrative Officer only in accordance with Title 24 VSA §4449 and the following provisions:

- A. Within thirty (30) days of receipt of a complete application, including all application materials, fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Development Review Board and/or state for consideration. In accordance with Title 24 VSA §4448, §4449, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
- B. No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of the Development Review Board or City Council until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
- C. If public notice has been issued by the City Council for their first public hearing on a proposed amendment to these regulations, for a period of 150 days following that notice the Administrative Officer shall review any new application filed for compliance with the proposed amendment and applicable existing bylaws. If the new bylaw or amendment has not been adopted by the conclusion of the 150 day period, or if the proposed bylaw or amendment is rejected, the permit shall be reviewed under all applicable provisions of this bylaw Title 24 VSA §4449(d).
- D. A zoning permit shall include a statement of the time within which appeals may be taken under Title 24 VSA §4465; and shall require posting of a notice of permit by the property owner, on a form prescribed by the municipality, within view of the nearest public right-of-way until the time for all appeals have expired.
- E. The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the Assessor; and shall post a copy of the permit in the municipal offices for a period of fifteen (15) days from the date of issuance.

702.04 Effective Date

- A. No zoning permit shall take effect until the time for appeal under Title 24 VSA §4465 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal.
- B. Zoning permits and associated approvals shall remain in effect for 2 year(s) from the date of

issuance, unless the permit and associated approvals specify otherwise. 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. 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.

702.05 Certificate of Occupancy

A. It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of this bylaw, within the area affected by this bylaw, until a certificate of occupancy is issued therefore by the administrative officer, stating that the proposed use of the structure or land conforms to the requirements of this bylaw. Provision of a certificate as required by 30 V.S.A. Section 51 (residential building energy standards) or 53 (commercial building energy standards) shall be a condition precedent to the issuance of any such certificate of occupancy.

Certificates of occupancy are only issued to property owners. It is the responsibility of the property owner to obtain certificates of occupancy for new tenants when required.

Certificates of occupancy are required for all new structures or additions to existing structures and change of allowed use of the structure in whole or in part that is not incidental and subordinate to the primary use.

Certificates of occupancy are required for all new non-residential tenants regardless of similarities to previous tenants in all commercial rental properties. A certificate of occupancy is not required for a change of residential tenants in a residential rental property.

The certificate of occupancy is a local certificate for the City of Newport only. It is the property owner's responsibility to obtain all State, Federal, Army Corp of Engineers and any other permits that may be required. All required permits must be obtained prior to the local certificate of occupancy being issued. In the event that the local certificate of occupancy is issued prior to other valid permits being obtained, the local certificate of occupancy is automatically voided.

§703 Penalties

Violations of this bylaw shall be regulated as prescribed in Title 24 VSA §4451 - §4454.

§704 Development Review Board

The Development Review Board (DRB) shall consist of not less than five (5) nor more than nine (9) members appointed by the City Council for specified terms in accordance with Title 24 VSA §4460(b) and §4460(c). The City Council also may appoint alternates, for specified terms, to serve on the DRB in situations when one or more members of the DRB are disqualified or are otherwise unable to serve. Any member of the DRB may be removed for cause by the City Council upon written charges and after public hearing.

The DRB shall adopt rules of procedure and rules of ethics with respect to conflicts of interest to guide its official conduct, as required under Title 24 VSA §4461(a) and Vermont's Open Meeting Law. The DRB shall

have all powers and duties as set forth in Title 24 VSA, Chapter 117 to administer the provisions of these regulations, including but not limited to the power to hear and act upon:

- applications for site plan approval, §708;
- applications access for nonfrontage lots, §404B;
- applications for subdivision of land, Article 6;
- applications for planned unit development, §709;
- appeals from any decision, act or failure to act by the Administrative Officer Title 24 VSA §4465, and any associated variance requests Title 24 VSA §4469;
- applications for conditional use approval Title 24 VSA §4414(3);
- changes to nonconformities;
- applications for Local Act 250 Reviews.

(1) In accordance with Title 24 V.S.A. 4420, the Development Review Board is hereby authorized to undertake local Act 250 review of municipal impacts caused by a “development” and/or “subdivision,” as such terms are defined in Title 10 V.S.A. Chapter 151.

(2) With respect to such “developments” and/or “subdivisions”, the Development Review Board, pursuant to the procedures established under Title 24 V.S.A. Chapter 36 (the Municipal Administrative Procedures Act), shall hear applications for local Act 250 review of municipal impacts at a duly warned public hearing.

(3) All applicants for Act 250 permits for such “developments” and/or “subdivisions” located within the City of Newport shall go through this review process, unless all of the following apply:

(A) The applicant can establish to the satisfaction of the Development Review Board that the applicant relied on a determination by the Natural Resource Board’s local district coordinator that Act 250 jurisdiction did not apply to the development and/or subdivision in question and, based upon that reliance, the applicant obtained local permits without complying with the requirement for local Act 250 review.

(B) The Natural Resource Board’s local district coordinator’s jurisdictional ruling was later reconsidered or overturned on appeal, with the result that Act 250 jurisdiction does apply to the “development” and/or “subdivision” in question.

(C) The Development Review Board waives its local Act 250 review jurisdiction in the interest of fairness to the applicant.

(4) Determinations by the Development Review Board regarding whether or not to waive its local Act 250 review jurisdiction shall not be subject to review.

(5) At the Development Review Board’s local Act 250 review proceedings, the applicant shall provide, at the minimum, all of the information relating to Act 250 Criteria 6, 7, and 10 requested in the Act 250 Application Forms and demonstrate to the satisfaction of the Development Review Board that the proposed “development” and/or “subdivision”:

(A) Will not cause an unreasonable burden on the ability of the City to provide educational services (Act 250 Criterion 6).

(B) Will not cause an unreasonable burden on the ability of the City to provide municipal or governmental services (Act 250 Criterion 7).

(C) Is in conformance with the duly adopted City Plan (Act 250 Criterion 10).

§705 Conditional Uses

No Zoning Permit shall be issued by the Administrative Officer for any use or structure, which requires conditional use approval in this bylaw until the DRB grants such approval. In considering its action, the DRB shall make findings on general and specific standards, hold hearings and attach conditions if any, as provided for in Title 24 VSA, 4414(3).

§705.01 The standards shall require that the proposed conditional use shall not result in an undue adverse effect on any of the following:

1. General Standards:
2. The capacity of existing or planned community facilities.
3. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
4. Traffic on roads and highways in the vicinity.
5. Bylaws and ordinances then in effect.
6. Utilization of renewable energy resources.

§706 Waivers: Where renovation, expansion or new construction is proposed for a residential structure on a nonconforming lot, a waiver of up to 50% of the setback distance (e.g., a 30 ft. setback may be reduced by up to 15 ft.) shall be approved by the Development Review Board if the following standards are satisfied:

1. The proposal shall meet all conditional use criteria. As a condition of approval, the Board may require the mitigation of impacts to adjoining properties and uses through building design, layout, landscaping or screening.
2. The new or renovated part of the building is needed to accomplish the intended goal (an expanded, improved entry deck, for example).
3. The result shall improve the property and the neighborhood.
4. It is helpful or necessary to allow for continued reasonable use of the property.
5. The proposed work or construction shall not encroach any more than necessary to accomplish the desired results.

Any reduction of setback standards beyond 50% may only be granted in accordance with variance standards.

§707 Variance

§ 707.01 Appeal; variances

(a) On an appeal under section 4465 or 4471 of this title in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is not primarily a renewable energy resource structure, the board of adjustment or the development review board or the environmental court created under 4 V.S.A. chapter 27 shall grant variances and render a decision in favor of the appellant, if all the following facts are found, and the finding is specified in its 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 the bylaw 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 the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(3) 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.

(5) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

§708 Site Plan Review

A Zoning Permit may be issued by the Administrative Officer for one-family & two-family dwellings and permit applications that meet the FBC standards for Administrative Review Process. All other permits will require DRB site plan review. Site Plan Reviews shall fall into two categories:

1. Minor Impact Review
2. Major Impact Review

Minor Impact Review permit applications are (unless otherwise determined by ZA) *Change of Use* permit applications that do not propose changes to the building or site and/or do not require additional parking spaces. See Chart: 708.01

708.01

Type of Review		Change of use		Conditional use			
	One and two-family dwelling	w/ building changes	w/out building changes	w/ building changes	w/out building changes	All Other	Meets FBC Administrative review process requirements
Administrative Review	X						X
Major Review		X		X		X	
Minor Review			X		X		

All permits must be reviewed by the Department of Public Works for adequacy of water, sewer and roadways. All new infrastructures must be built to City specifications, except for paving, prior to the creation and transfer of any lot. Paving must be to City Standards within 3 years of initial construction of the road or prior to the sale/transfer of more than 25% of the lots accessed from the road. Copies of the current specifications as approved by the City Council are available at the municipal offices.

Any new Right-Of-Way accessing 3 or more building lots will be considered a road. Any new subdivision off of an existing private Right-Of-Way accessing 3 or more building lots will be considered a new road and will have to be brought up to City Standards. As an example, any lot on a private Right-Of-Way not built to City Standards accessing more than 3 building lots wishes to split their lot in half creating 1 additional lot. The private Right-Of-Way would now have to be brought up to City Standards up to the point accessing the new lot, this includes paving and a cul-de-sac/hammerhead.

An example of the paving requirement would be, we have a new 10-lot subdivision and 2 lots are sold in the first year. The road would have to be paved prior to the sale of the 3rd lot. If the remaining 8 lots are not sold the road would still have to be paved within 3 years of initial construction. Another example would be on an existing private Right-Of-Way, as noted above, the road would have to be brought up to City Standards prior to the sale/transfer of the additional lot.

Site plan review is not for signs unless they impact within the criteria of §708.02(E).

For Major Impact Review permit applications the requirements are as follows in §708.02. For Minor Impact Review permit applications §708.02 may apply pending application—applicability to be determined by the Zoning Administrator.

708.02 The owner shall submit one set and seven (7) full size copies of Site Plan Maps and a Supporting Data Addendum to the Zoning Administrator, two (2) weeks prior to the respective meeting, for necessary copying and submittal to the DRB members. If physical changes to the site or structure(s) are proposed, the Site Plan Map shall include the following—when applicable:

A. Preparer and legend:

1. Name, address and signature of the person who prepared the map, and registry of Deeds Book and Page,
2. Scale, that is the number of feet in one (1) inch on the map; North arrow and date of map completion,

B. Present conditions showing:

- 1 Subject property boundaries and approximate location and names of abutting property owners,
2. Locations and setbacks from boundaries of: existing structures and land uses, driveways, large trees (larger than 6 inches in diameter at the base), streets, including rights-of-way and driveways, and utility easements: pads poles, pipes, wires, etc.,
3. Contours, that is, existing grade changes and/or existing drainage flow pattern.

C. Proposed changes showing:

1. For subdivisions, new lot boundaries.
2. Structures and land uses to be removed or modified and new planned constructions, features and land uses with locations and setbacks;
3. Building elevations.
4. Landscaping plan, including any large tree removal, with locations of plantings and grading and drainage pattern;
5. Traffic patterns with street, driveways, parking and loading spaces and pedestrian walks;
6. New utility easements.

D. The Supporting Data Addendum shall include the following:

1. City Deed Registry, Book and Page reference for subject property;

2. Name and address of the owners of record of the subject lot(s) and the abutting property owners;
3. Present land use and any deed restrictions or covenants, and if so attached copies;
4. Construction schedule, that is, planned start and finish dates for each phase and/or portion; such as structures, streets and ways, parking and loading areas, landscaping, etc...;
5. Proposed performance bonds.

E. The DRB shall conform to the requirements of Title 24 VSA §4416 before acting upon any application. In considering its action the DRB shall consider and may impose appropriate conditions and safeguards, in a manner that is consistent with the intent of this bylaw and the City Plan, with respect to:

1. the adequacy of parking, traffic access, and circulation for pedestrians and vehicles with particular attention to safety;
2. the adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility and protection to adjacent properties;
3. the protection of the utilization of renewable energy resources;
4. exterior lighting;
5. harmonious relationship between proposed uses and existing adjacent uses;
6. the adequacy of drainage control;
7. compliance with all pertinent parts of this bylaw;
8. If the property is in a Special Flood Hazard Area, it must meet or exceed all criteria of section 433 B, Special Flood Hazard Area of this bylaw.

§709 Planned Unit Development

With the approval of a subdivision plat the DRB is hereby empowered to vary certain requirements in this zoning bylaw under the criteria and procedures established in Title 24 VSA §4417.

709.01 Proposals for planned unit developments shall be submitted to the DRB. The material accompanying the proposal shall conform to the requirements of §706. In addition the 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.

709.02 The purpose of planned unit developments 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 quality in residential land uses so that development will be a permanent and long-term asset to the city.
- 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 a small network 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 the other sections of this bylaw.

709.03 Density may vary within the development but the total permitted number of principal uses shall not exceed 25% more than the number which could be permitted in the DRB's judgment if the land were subdivided into lots in conformance with the zoning regulations for the district in which the land is situated.

- 709.04** The predominant use of the land shall not differ substantially from the uses permitted in the district in which the plan is located.
- 709.05** Lot size, width, front, side and rear yard requirements may be waived; however, these will be evaluated by the DRB on their individual merit.
- 709.06** A planned unit development shall comply with the following standards:
A. Shall be at least five contiguous acres.
B. When public water and/or sewer are not available, water and/or sewer facilities on all lots must be permitted by the appropriate State Agency.
C. Not less than 25 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 DRB. This requirement shall not apply to the commercial and industrial districts.
- 709.07** 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 rules and regulations are not inconsistent with the zoning bylaw. The Planning Commission shall hold a public hearing after public notice as required by Title 24 VSA §4444, prior to the establishment of any supplementary rules and regulations for planned unit development.

§710 Planning Commission

The Planning Commission shall consist of not less than three (3) or more than nine (9) members appointed by the City Council in accordance with Title 24 VSA §4321– §4323. At least a majority of members shall be residents of the municipality. Any member of the Commission may be removed at any time by a unanimous vote of the City Council.

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 Title 24 VSA §4323(b) & §4461(a) and Vermont's Open Meeting Law. The Commission shall have all powers and duties as set forth in Title 24 VSA, Chapter 117 and in association with these regulations, including but not limited to:

- to prepare proposed amendments to these regulations, and consider proposed amendments submitted by others, including amendments submitted by petition under Title 24 VSA §4441(b);
- to prepare and approve written reports on any proposed amendment to these regulations as required by Title 24 VSA §4441(c); and
- 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 City Council, Title 24 VSA §4441(d);

ARTICLE 8 AMENDMENTS, INTERPRETATION, EFFECTIVE DATE

§801 Amendments

This bylaw may be amended according to the requirements and procedures established in Title 24 VSA §4441 and §4442.

§802 Interpretation

The provisions of this bylaw shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

Except for Title 24 VSA §4413(c) and where, in this bylaw, specifically provided to the contrary, it is not the intent of this bylaw to repeal, annul or in any way to impair any bylaw or permits previously adopted or issued, provided, however that where this bylaw imposes a greater restriction upon the use of a structure or land than are required by any other statute, ordinance, rule, regulation, permit, easement, or agreement, the provisions of this bylaw shall control.

§803 Effective Date

This bylaw shall take effect in accordance with the voting and other procedures contained in Title 24 VSA, §4442.

§804 Separability

The invalidity of any article or section of this bylaw shall not invalidate any other article or section thereof.

§805 Repeal

Upon the effective date of this bylaw, the existing zoning bylaw, adopted August 30, 1971, as amended thereafter, is hereby repealed.

ARTICLE 9: DEFINITIONS

§901 Word Definitions

The word *PERSON* includes firms, associations, organizations, partnerships, trusts, companies, corporations and individuals.

Throughout this bylaw, the present tense includes the future tense, the singular form includes the plural, and the plural form includes the singular.

The word *SHALL* is mandatory and the word *MAY* is permissive.

Except where specifically defined as otherwise herein, all words used in this bylaw shall use the definitions described in Title 24 VSA §4303. For terms that are not defined in this document the Bylaw may utilize "The New Illustrated Book of Development Definitions", by Harvey S. Moskowitz and Carl G. Lindbloom, to establish an accepted meaning.

§902 Term Definitions: NOTE – "For definitions applicable to the special Flood Hazard Area, please see Section 433.09."

ABANDON (as per telecommunication facility): To leave a telecommunication facility without claimed ownership for thirty (30) days or more.

ABUTTING PROPERTY OWNER: Any person or persons, corporation or other entity that owns, leases, or in any other way uses or controls, the real property abutting any portion of the property of another.

ACCESSORY APARTMENT: an efficiency or one-bedroom apartment located within or appurtenant to an owner-occupied single-family dwelling, which does not exceed 30% of the total habitable floor area of the single-family dwelling.

ACCESSORY USE/STRUCTURE: A use or building customarily incidental and subordinate to the principal use or building and located on the same lot.

ADEQUATE CAPACITY: Capacity for wireless telephony is considered to be "adequate" if the grade of service (GOS) is p.05 or better for median teletraffic levels offered during the typical busy hour, as assessed by direct measurement of the facility in question. The GOS shall be determined by the use of standard Erlang B calculations. As call blocking may occur in either the landline or radio portions of a wireless network, adequate capacity for this regulation shall apply only to the capacity of the radio components. Where capacity must be determined prior to the installation of the personal wireless services facility in question, adequate capacity shall be determined on the basis of a 20% busy hour (20% of all offered traffic occurring within the busiest hour of the day), with total daily traffic based on aggregate estimates of the expected traffic in the coverage area.

ADEQUATE COVERAGE: Coverage for wireless telephony is "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is such that most of the time, transceivers properly installed and operated will be able to communicate with the base station without objectionable noise (or excessive bit-error-rate for digital) and without calls being dropped. In the case of cellular communications in a rural environment, this would be a signal strength of at least -90

dBm. It is acceptable for there to be holes within the area of adequate coverage as long as the signal regains its strength further away from the base station. The outer boundary of the area of adequate coverage, however, is that location past which the signal does not regain.

ADULT DAY CARE: Any home or facility, operated as a business or service on a regular or continuous basis, whether for compensation or not, which provides non-medical care services for adult individuals for a limited number of hours per day. Where no overnight care is offered.

AFFILIATE: When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest. When used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

AFFORDABLE HOUSING: Housing that is owned by its inhabitants, whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30 percent of the household's gross annual income, or Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. 24 VSA §4303(1)(A).

AGRIBUSINESS: Land and buildings, including greenhouses, used to raise fruits, vegetables, plants, flowers, and shrubs for subsequent sale. As defined herein an agribusiness shall not include the keeping, breeding, or grazing of dairy animals; poultry; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof; bees; and/or fur bearing animals.

AGRICULTURE: The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

ALLEY: The public right of way for vehicles and pedestrians within a BLOCK that provides access to the rear of buildings, legally-allowed vehicle parking (e.g., garages), utility meters, recycling and garbage bins.

ALTERATION: Structural change, rearrangement, change of location, or addition to a building, other than repairs and modification in building equipment or fixtures.

ANTENNA: A device for transmitting and/or receiving electromagnetic waves, which is attached to a tower or other structure.

ANTENNA HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

ASSISTED LIVING FACILITY: A system of housing and limited care that is designed for elderly or disabled people who need some assistance with daily activities, while still maintaining some independence, but do not require care in a nursing home.

AUTO SALES/SERVICE: Any establishment involved in the sale, repair, or servicing of an automobile or other vehicle used on a public highway.

AUDITORIUM: A building for a public meeting and sporting competition, or artistic performances.

AWNING: A cantilevered, projected or suspended cover over the sidewalk portion of the street. Also, roof-like coverings, usually of canvas or metal and often adjustable, placed over the sidewalk, windows, or doors to provide protection from sun and rain.

BANK: An institution for receiving, lending, exchanging, and safeguarding money, and in some cases, issuing notes and transacting other financial business.

BAR: A structure or part of a structure used primarily for the sale or dispensing of liquor by the drink.

BED AND BREAKFAST: A form of commercial lodging often operated within a single family dwelling by the occupants thereof that provides sleeping quarters and breakfast to transients for a fee.

BLOCK: An aggregate of private lots, passages, alleys and lanes, circumscribed by public streets.

BLOCK CORNER: Two public streets meet on a Block.

BLOCK FACE: The aggregate of all the building facades on one side of a Block.

BOARDING HOUSE: Building wherein more than four people are sheltered for profit.

BOAT STORAGE: A yard or building used to store one or more boats in return for a fee paid by the owner of the boat.

BOATHOUSE: A building or shed usually built partly over water for sheltering one or more boats.

BUILDING: Means a walled and roofed structure, including a gas or liquid storage tank that is principally above ground.

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

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

BUILDING REAR LINE: Line parallel to the front 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.

BUILDING HEIGHT: Vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof. All buildings are limited to a maximum height of 72 ft for fire protection reasons. Building Heights in excess of 72 ft. shall be addressed for fire protection safety by the Newport City Fire Chief as part of the permit process. The developer may be required to pay impact fees to cover any fire protection costs.

BUILDING ENVELOPE STANDARDS (BES): The part of the code that establishes basic parameters regulating building form, including the envelope, placement (in three dimensions) and certain permitted/required building elements, such as storefronts, and street walls. The BES establishes both the boundaries within which things may be done and specific things that must be done. The applicable BES for a site is determined by its street frontage and street type as per the regulating plan/map, producing a coherent street and allowing buildings greater latitude behind their street facade.

BUILD-TO LINE: A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line. Front porches, stairs and handicap ramps may extend beyond the build-to line up to half their depth.

BULKHEAD – A retaining wall created along a body of water behind which fill is placed or a horizontal sloping structure providing access to a cellar stairway or an elevator shaft.

BULK FUEL STORAGE: The storage of petroleum products for subsequent resale to distributors or retail dealers or outlets.

CAMPGROUND: A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes.

CAR WASH: Any building or premises or portions thereof; with or without automatic or semiautomatic facilities to move, wash, wax and/or dry the car; designed to clean an automobile.

CEMETERY: A place for burying the dead.

CHANNEL (TELECOMMUNICATIONS): The segment of the radiation spectrum to or from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

CIVIC BUILDING: A building operated by not-for-profit organizations dedicated to arts, culture, religion, education, recreation, government, transit, and municipal parking, or for use approved by the legislative body.

CIVIC SPACE: An outdoor area dedicated for public use.

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

CLUBS: A facility for a group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and constitution and bylaws.

COLLOCATION: Locating personal wireless telecommunications equipment from more than one provider at a single site or structure.

COMMON YARD: A planted private frontage wherein the facade is set back from the front property line.

COMMUNITY CENTER: Any public or private meeting hall, place of assembly, museum, art gallery, library, place of further education, church, which is not operated primarily for profit.

CONDOMINIUM, COMMERCIAL: A commercial building or group of buildings, in which units or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONDOMINIUM, INDUSTRIAL: An industrial building or group of buildings, in which units or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONDOMINIUM, RESIDENTIAL: A residential building or group of buildings, in which units or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONTRACTOR: One who contracts to furnish supplies of performs work at a certain price or rate.

CONTRACTORS YARD: Part or all of a parcel of land used by a contractor for the storage of materials and/or equipment.

COVERAGE: The percentage of the lot area covered by the total building area.

dBm: Unit of measure of the power level of a signal expressed in decibels above 1 milliwatt.

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, or land, or extension of use of land.

DORMITORIES: Includes fraternity, sorority, nurses' home, and college dormitory.

DWELLING, MULTI-FAMILY: Building used as living quarters by three or more families, living independently of each other.

DWELLING, SINGLE-FAMILY: Detached building used as living quarters by one family.

DWELLING, TWO-FAMILY: Building used as living quarters by two families living independently of each other.

DWELLING UNIT: Building or part thereof used as living quarters for one family. The terms "dwelling", "one-family dwelling", "two-family dwelling", or "dwelling group" shall not include a motel, hotel, boarding house, tourist home, or similar structure.

ELDERLY HOUSING: Housing in which the primary resident is 62 years of age or older.

ESSENTIAL SERVICES: The structure to support underground, surface, or overhead electrical, telecommunication, 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.

FAMILY: One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit, provided that unless all members are related by blood, marriage or adoption, no such single housekeeping unit shall contain more than five members.

FARM STRUCTURE: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural practices, including a silo.

FLOOD INSURANCE STUDY: Means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations

FLOOR AREA: Sum of the gross horizontal area of the floors of a building, excluding basement floor areas. All dimensions shall be measured between interior faces of walls.

FLOOR AREA OR ROOM, HABITABLE: Floor area of rooms in a dwelling unit used for bedrooms, living room, dining room, and kitchen.

FREIGHT/TRUCKING TERMINALS: An area and building where cargo is stored and where trucks load and unload cargo on a regular basis.

FRONT: The side of a property facing a public street or lake.

FRONTAGE: That side of a lot abutting on a street; the front lot line.: On corner or through lots, the frontage may be designated by the owner but it should be consistent with the orientation of the other lots and improvements on the same side of the street. On improved lots, the frontage is usually the side where

the main building entrance is located and in the general direction in which the principal building faces. The linear distance measured along the front lot line between the points of intersection with the side lot lines. For the purpose of measurement, lot "frontage" shall be continuous and measured along the joining boundary of the front lot line and a public right-of-way

GALLERY: A private frontage for retail use wherein the facade is aligned close to the front property line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.

GASOLINE STATION: Building or land that is used for the sale of motor fuel, oil and motor vehicle accessories, and which may include 1) facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs, or 2) a mini-mart.

GHz: Gigahertz. One billion hertz

GRADE, FINISHED: Completed surfaces of ground, lawns, walks, paved areas and roads brought to grades as shown on plans relating thereto.

GROUND FLOOR: The first level of a building other than a cellar or basement. The street level floor of a structure. Note this term differs from "Lowest Floor" in the Special Flood Hazard Area, which includes a basement. See section 433.09.

HAZARDOUS WASTE MANAGEMENT FACILITY: Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA §6606(a).

HERTZ: (Hz) One hertz is the frequency of an electric or magnetic field which reverses polarity once each second, or one cycle per second.

HIGH WATER MARK: The elevation for the high water mark of Lake Memphremagog is to be considered 683 feet above sea level.

HISTORIC BUILDING: A building that is either eligible for or on the National Register of Historic Places.

HOME OCCUPATION: Accessory use of an occupational nature conducted within a minor portion of a dwelling by the residents thereof, which is clearly secondary to the dwelling used for living purposes and does not change the character thereof.

HOSPITAL: An institution authorized by the state to provide primary and emergency health services and medical or surgical care to a persons, primarily inpatients, suffering from illness, disease, injury, or other physical or mental conditions; and including, an integral part of the institution, related facilities such as laboratories, outpatient and inpatient facilities, training facilities, medical offices, central service facilities, and staff residences.

HOTEL: A facility offering transient lodging accommodations to the general public and which may also provide additional services such as restaurants, meeting rooms, and recreation facilities.

JUNK YARD: Land or building used for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, wrecking, dismantling, storage, salvaging and sale of machinery parts or vehicles not in running condition.

LEAN-TO: A shed like structure with one or more open sides.

LICENSED DAY CARE: Any place, operated as a business or service on a regular or continuous basis whether for compensation or not, which provides childcare services and is licensed by the State of Vermont. A zoning permit is required for a Licensed Day Care.

LIGHT MANUFACTURING: Fabrication, processing or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood-disturbing agents, such as odors, gas, fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration.

LOADING SPACE: Off-street space used for the temporary location of one licensed motor vehicle, which is at least twelve feet wide and forty feet long and fourteen feet high, not including access driveway and having direct access to a street or alley.

LOT: Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, having no less than the minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may be determined by the Development Review Board to be adequate as a condition of the issuance of a zoning permit for a building on such land. (See Title 24 VSA §4412(2) for "Existing Small Lots.")

LOT AREA: Total area within the property lines excluding any part thereof lying within the boundaries of a public street, or proposed public street.

LOT CORNER: Lot which has an interior angle of less than 135 degrees at the intersection of two streets. A lot abutting a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle less than 135 degrees.

LOT DEPTH: Mean horizontal distance from the street line of the lot to its opposite rear line measured at right angles to the building front line.

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

LOT LINE: Property lines bounding a lot.

LOT WIDTH: Width measured at right angles to its lot depth, at the required building front line.

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.

MARINA: A facility for storing, servicing, fueling, berthing and securing of pleasure boats and which may include eating, sleeping and retail facilities for owners, crews and guests.

MOBILE HOME PARKS: Defined in Title 10 VSA, Chapter 153. See Planned Unit Development definition in this document.

MONITORING: The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a facility site as a whole, or from individual personal wireless communication facilities, towers, antennas or repeaters.

MONITORING PROTOCOL: The testing protocol, such as the Cobbs Protocol, (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119) which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities upon adoption of this article.

MONOPOLE: A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal or a wooden pole with below grade foundations.

MOTEL: An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTOR VEHICLE SERVICE/REPAIR: Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

NEIGHBORHOOD STORE: A small grocery store, with less than 5,000 square feet of floor area, designed and operated to serve the neighborhood in which it is located. Such grocery stores shall not include the sale of gasoline and other petroleum products.

NONCONFORMING LOT OR PARCEL: 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.

NONCONFORMING STRUCTURE: 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.

NONCONFORMING USE: 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.

NONCONFORMITY: A nonconforming use, structure, lot, or parcel.

NON-RESIDENTIAL USE: All uses of building, structures, or land except one-family dwellings, two-family dwellings and multiple-family dwellings.

NURSERY SCHOOL: Any school, public or private, that offers educational services to children under the age of 6.

NURSING HOMES: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

OFFICE: A building or portion thereof wherein services are performed involving predominantly administrative, professional, or clerical operations.

OFF-STREET: PARKING: A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

OPEN SPACE: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

OUTBUILDING: A separate accessory building or structure not physically connected to the principal building. Outbuildings tend to be smaller than the principal structure and may be used for storage or ancillary use. On estates, outbuildings are often the living quarters for employees. An accessory building, usually located toward the rear of the same lot as a principal building, and sometimes connected to the Principal Building.

OUTDOOR WATERSTOVE: Any furnace designed to burn wood and used for the purpose of heating water where the furnace is located outside the structure into which the hot water produced thereby is piped.

PARAPET: The extension of the main walls of a building above the roof level. Parapet walls are often used to shield mechanical equipment and vents. Many ordinances do not include the height of the parapet wall as part of the maximum height limit. A low protective wall or railing along the edge of a raised structure such as a roof or balcony.

PARKING LOT/GARAGE: An off-street open area or structure used for the daily storage of registered motor vehicles.

PARKING SPACE: Off-street space used for the temporary location of one licensed motor vehicle, which is at least 9 feet wide and 20 feet long, not including access driveway, and having direct access to a street or alley.

PERSONAL SERVICES: Establishments primarily engaged in providing services involving the care of a person or his or her apparel. This shall include, but not be limited to, a laundry, cleaning and garment services, garment pressing, linen supply, diaper service, coin-operated laundries, dry cleaning plants, carpet and upholstery cleaning, photographic studios, beauty shops, barber shops, shoe repair, hat cleaning, funeral services, steam baths, reducing salons and health clubs, clothing rental, locker rentals and porter service.

PERSONAL WIRELESS SERVICES: Commercial mobile services, unlicensed wireless exchange access services. These services include: cellular services, personal communications services, specialized mobile radio services, and paging services.

PERSONAL WIRELESS TELECOMMUNICATION FACILITY: All equipment (including repeaters) and locations of equipment with which a telecommunications provider transmits and receives the waves that carry

their services. This facility may be sited on one or more towers or structure(s) owned and permitted by the provider or another owner or entity.

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE PROVIDER: Any person or entity providing Personal Wireless Telecommunications Services.

PET SERVICES: A commercial establishment in which dogs or other common household pets are groomed, bred, or trained for a fee or compensation. Overnight boarding is not allowed.

PLANNED UNIT DEVELOPMENT: One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. This plan, as authorized, may deviate from bylaw requirements that are otherwise applicable to the area in which it is located with respect to lot size, bulk, or type of dwelling or building, use, density, intensity, lot coverage, parking, required common open space, or other standards.

PRINCIPAL BUILDING: A building in which is conducted the principal use of the lot on which it is located. The main building on a Lot, usually located toward the Frontage

PROFESSIONAL ENGINEER: An engineer licensed to practice in the State of Vermont.

PUBLIC ASSEMBLY: Includes auditorium, theater, public hall, school hall, meeting hall, church and temple.

PUBLIC BUILDING: Any building owned and operated by either the federal, state, county or municipal government for the conduct of the business of such governmental entity.

PUBLIC SPACE: Space open to public view or access.

PUBLIC WATER, PUBLIC SEWER: Water supply and sewage disposal systems approved by the City Council for municipal operation.

REAR: The private back portion of a property.

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

RECYCLING CENTER: An enclosed building used for the purpose of receiving, sorting, and/or shipping of recyclable materials.

REGIONAL SOLID WASTE MANAGEMENT Regional solid waste management facilities certified under 10 VSA. Chapter 159.

REGISTERED DAY CARE: Any place, operated as a business or service on a regular or continuous basis whether for compensation or not, which provides childcare services and is registered by the State of Vermont. A home occupation permit is required for a Registered Day Care.

REGULATING PLAN: A zoning map or set of maps that shows the sub-districts subject to regulation by the form-based code.

RELIGIOUS INSTITUTION: Includes church, temple, parish house, convent, seminary, and retreat house.

RENEWABLE ENERGY RESOURCES: Energy made available for collection or conversion from direct sunlight, wind, running water; organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

REPEATER: A small receiver/relay transmitter designed to provide service to areas that are not able to receive adequate coverage from a base station in a personal wireless telecommunications network and has no significant visual impact on the surrounding area.

RESERVOIR: A pond, lake, tank or basin, natural or man-made, used for the storage, regulation and control of water.

RESIDENTIAL USE: Includes one-family dwelling, two-family dwelling, multiple-family dwelling and home occupations.

RESIDENTIAL SHORT-TERM ROOM RENTAL BUSINESS: A “Home Based Business” that is operated by the Owner of a single-family home that chooses to rent unused rooms, and may also provide breakfast, to transient tenants by the day or week. A “Residential Short-Term Room Rental” business shall meet all the following criteria.

First, the home owner must obtain a City Zoning permit to operate the operate the “Residential Short-Term Room Rental” business as a home-based business and meet all criteria for a home-based business, (See Section 408-B – Protection of Home Occupations) including parking.

Second, the home owner must live in the building on a fulltime basis and be home during all periods of rental. The building may not be rented to transient tenants during times when the home owner is absent.

Third, the number of transient tenants is limited to a maximum of eight (8) tenants at the same time.

RESTAURANT: An establishment, with or without a bar, where food and drink is prepared, served and consumed primarily within the principal building. This definition shall also include take out, home delivery or the serving of food on outdoor porches, decks or patios.

RETAIL BUSINESSES: 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 BOUTIQUES: A small retail business located in a small booth or building not exceeding 500 square feet in area.

SCENIC VIEW: A wide angle or panoramic field of sight that may include natural and/or human-made structures and activities. A scenic view may be from a stationary viewpoint or be seen as one travels along a roadway, waterway, or path. A view may be to a faraway object, such as a mountain, or a nearby object.

SCHOOL: An institution for the instruction of children or people under college age.

SHED: A rectangular four-sided structure with a footprint of 200 square feet or less and a roof no higher than 15 feet. A structure designed to architecturally blend with the principal structure on their respective property. A structure that has only one floor and no outside wall openings without windows or doors. The primary use of which is storage and not work space

SHELTER: A building or portion thereof that is used to provide time-limited (12 months or less) housing for persons who are homeless or in need of a safe place to stay.

SHOPPING CENTER: A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site.

SHORELANDS: The lands being between the high water mark of a lake, pond or impoundment exceeding twenty acres and a line not less than five hundred feet or more than one thousand feet from such high water mark.

SIDEWALK: A paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway. The paved section of the public frontage dedicated to pedestrian activity, café seating, and other street furniture.

SIGN: Any object, device, display or structure, or part thereof which is situated outdoors and used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. This definition shall not include window displays.

SQUARE: A civic space designed for unstructured recreation and civic purposes, spatially defined by building frontages and consisting of paths, lawns and trees.

STEALTH FACILITY: Any communications facility that is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, antenna structures designed to look like light poles, and structures designed to resemble natural features such as trees or rock outcroppings.

STOOP: A private frontage wherein the facade is aligned close to the front property line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance.

STORE FRONT: A private frontage for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the front property line with the building entrance at sidewalk grade

STORY: Part of a building which is between one floor level and the next higher floor level, or if there is no floor above it then the ceiling above it.

STREET: Any vehicular way that: (1) is an existing state, county or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the municipal recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; includes the land between the street lines, whether improved or unimproved. A city thoroughfare for pedestrian and vehicle access.

STREET FRONTAGE: Lot lines, which abut a public street.

STREET FURNITURE: Constructed above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, that have the potential for enlivening and giving variety to street sidewalks, plazas and other outdoor spaces open to , and used by , the public. *Comment:* Street furniture can include, but is generally distinct from, street hardware. Benches and other structures incorporated into the streetscape for use by pedestrians.

STREET GRADE: Officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LIGHTS: Pedestrian scale lighting incorporated into the streetscape and in parking facilities to promote safe travel during evening hours.

STREET LINE: Right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the centerline of the traveled portion of the right-of-way.

STREET TREES: A canopy of trees used to reinforce the area along vehicular streets where pedestrian activities are encouraged.

STREETSCAPE: The physical elements along a street including trees, benches, waste bins, and bike racks.

STREET WALLS: A freestanding wall built along the front property line. It may mask a parking lot from the street, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground, except a wall or fence on an operating farm.

TEMPORARY WIRELESS COMMUNICATION FACILITY: Any tower, pole, antenna, etc., designed for use while a permanent wireless facility is under construction, or for a special event or conference.

THEATERS: A building or part thereof devoted to showing motion pictures, or for dramatic, musical or live performances.

TRAILER: Includes any vehicle used as sleeping or camping or living quarters mounted on wheels and any vehicle which is customarily towed by a motor vehicle and used for carrying goods, equipment, machinery, boats or as an office. See recreational vehicle also.

TRANSITIONAL HOUSING: A building or portion thereof that is used for time-limited (12 months or less) housing and services aimed at helping the residents overcome the challenges that led to their need for transitional housing. The goal is to provide support needed for participants to move into permanent housing.

USE, CONDITIONAL: Any use allowed in a zoning district subject to the approval of the Development Review Board and the restrictions applicable to the zoning district.

USE, PERMITTED: Any use allowed in a zoning district subject to the issuance of a permit by the zoning officer and the restrictions applicable to the zoning district.

VEHICLE: Any piece of equipment designed to be used on a public highway.

VETERINARY CLINIC: Any building used by a veterinarian for the diagnosis and treatment of animals.

Waiver: Permission to depart from the bylaw for properties located on a nonconforming lot.

WAREHOUSE: A building or a portion of a building used primarily for the storage of goods and materials, with off-street loading space.

WATER STORAGE: See reservoir.

WETLANDS: Lands that are transitional between land and water where the water table is usually at or near the surface of the land. Wetlands are characterized by unique hydric soils and contain plant and animal communities adapted to aquatic or intermittently wet conditions. Swamps, bogs, wet meadows, and marshes are examples of wetlands. Refer to Title 24 VSA §4303(32).

WHOLESALE USE: Establishments of places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WILDLIFE REFUGE: A parcel of land, including necessary accessory structures, set aside for the preservation of one or more species of undomesticated animals.

YARD: Space on a lot not occupied with a building or structure. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

YARD, FRONT: Yard between the front lot line and the front line of the building extending to the side lot lines of the lot. The depth of the front yard shall be measured from the front lot line to the front line of the building. See also §401A of this bylaw.

YARD, REAR: Yard between the rear lot line and the 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.

