

SUPPLEMENTAL INFORMATION FOR THE ZONING AND DEVELOPMENT ORDINANCE

The following information is only regulatory when it is addressed as such within the body of the Ordinance such as, Appendix A-2 Well Head Protection. The remainder is for reference and clarity of a subject matter.

The following subsection contains:

Appendix A-1. Copy of the Zoning Map. The official map is on file with the Town Clerk and a certified copy is on display in the Planning Department and is a part of this Ordinance.

Appendix A-2. Well Head protection is attached and is a part of this Ordinance.

Appendix A-3. Attachments are contained herein for convenience of applying for permits and ease of checking for compliance

Appendix A-4. A brief discussion of Part 77 of the FAA requirements to file for Construction and Alteration Notice for Tall Structures and Hazards to Navigable Airspace. Along with the required FAA Form 7460-1.

Appendix A-5. NCGS 14-145. Unlawful posting of advertisements

This Ordinance may be amended from time to time. Copies of the amendment ordinances may be attached for reference until they can be incorporated within the body of the Zoning and Development Ordinance.

ZONING AND DEVELOPMENT ORDINANCE

ABSTRACT

This comprehensive zoning and development ordinance is a total revision of the Zoning Ordinance dated April 1970, January 1979, October 7, 1997 and incorporates all subsequent amendments up to the date of adoption of this document on September 12, 2013. It is based on the Land Use Plan. It contains the criteria for use of all land within the Town of Newport and its Extraterritorial Jurisdiction.

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David Heath
Chuck Shinn
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Tim White, Town Manager
Maryellen Brown, Clerk

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Herb Aponte' In Town
Al Hill, ETJ
Richard Kanuck, In Town
Chuck Hudson, In Town
Frank Blunt, In Town
William (Bill) Corbett
Clark Whitlow, ETJ

TECHNICAL ASSISTANCE AND STAFF

Robert (Bob) W. Chambers, Town Planner

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**ARTICLE I
ENACTMENT, SHORT TITLE AND PURPOSE**

1-1 Enactment Preamble

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF NEWPORT, A MUNICIPAL CORPORATION OF THE STATE OF NORTH CAROLINA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF NORTH CAROLINA GENERAL STATUTES, CHAPTER 160, ARTICLE 19 AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

THEREFORE BE IT AND THE SAME IS HEREBY ENACTED BY THE TOWN COUNCIL OF THE TOWN OF NEWPORT, NORTH CAROLINA:

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS PASSAGE AND ADOPTION, INCLUDING THE OFFICIAL ZONING MAP.

DULY ADOPTED BY THE NEWPORT TOWN COUNCIL THIS THE

12 DAY OF September, 2013

SIGNED: _____,
Derryl Garner MAYOR

_____,
Maryellen Brown TOWN CLERK

1-2 Short Title

THESE REGULATIONS SHALL BE KNOWN, REFERRED TO, AND CITED AS THE "NEWPORT ZONING AND DEVELOPMENT ORDINANCE."

1-3 Jurisdiction

THESE REGULATIONS SHALL GOVERN THE USE AND THE DEVELOPMENT THEREON OF ALL LANDS WITHIN THE CORPORATE LIMITS OF THE TOWN OF NEWPORT AND IT'S EXTRATERRITORIAL JURISDICTION AS DEFINED IN THESE REGULATIONS. THE TOWNS OF NEWPORT AND MOREHEAD CITY ARE AUTHORIZED, BY A LOCAL BILL OF THE GENERAL ASSEMBLY ENTITLED "S.L.1997-185, HOUSE BILL 604", ADOPTED 16th DAY OF JUNE, 1997 TO EXERCISE EXTRATERRITORIAL PLANNING JURISDICTION NOT TO EXCEED TWO MILES FROM THE CORPORATE LIMITS OF the Town EXCEPT WHERE MOREHEAD CITY OVERLAPS. THE DIVIDING LINE SHALL BEGIN WHERE THE RUN OF HULL SWAMP CREEK ENTERS INTO THE NEWPORT RIVER, THEN RUNS WITH THE RUN OF HULL SWAMP CREEK TO THE NORTHWEST CORNER OF THE PROPERTY OF MERRITT-WILLIAMS FORD IN THE SOUTHERN RIGHT-OF-WAY MARGIN OF U.S.HIGHWAY 70, THEN NORTHWESTWARD WITH THE SOUTHERN MARGIN OF U.S. HIGHWAY 70 TO THE NORTH WESTERNMOST CORNER OF THE PROPERTY OF PAUL WYSOCKI (TAX PARCEL NUMBER 634608990762), AND THENCE WITH THE WYSOCKI NORTHWEST LINE IN A SOUTHWESTERN DIRECTION TO THE NORTH PROPERTY LINE OF MAMIE MURDOCH (TAX PARCEL NUMBER 634704708233), AND THENCE WESTWARD AND SOUTHWARD WITH THE NORTH AND WEST LINES OF THE MURDOCH PROPERTY BACK TO THE RUN OF HULL SWAMP CREEK AND SHOWN ON THE "OFFICIAL ZONING MAP FOR THE TOWN OF

NEWPORT" WHICH IS HEREINAFTER MADE A PART OF THESE REGULATIONS TO THE SAME EXTENT AS IF THE INFORMATION SET FORTH ON SAID MAP WERE FULLY DESCRIBED AND INCORPORATED HEREIN. PREEXISTING BONA FIDE FARMS FOR AGRICULTURAL PURPOSES ARE EXCLUDED FROM THE JURISDICTION OF THIS ORDINANCE EXCEPT FOR THE FLOOD CONTROL PROVISIONS AS HEREIN PRESCRIBED. ANY PORTION OF A BONA FIDE FARM THAT IS NOT UTILIZED FOR SUCH SHALL IMMEDIATELY BECOME SUBJECT TO THIS ORDINANCE. THIS DOES NOT PRECLUDE A TRACK OF LAND OF THREE (3) ACRES OR MORE FROM BEING REESTABLISHED OR TO CREATE A BONA FIDE FARM IN AN R20 DISTRICT.

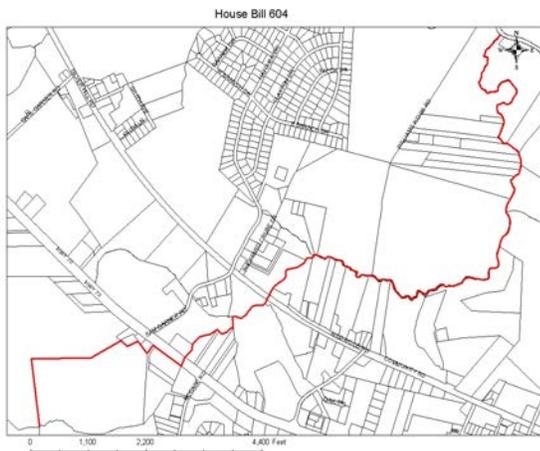


Illustration of House Bill 604

1-4 Purpose

a. For the purpose of promoting health, safety, morals, and the general welfare of the community, the Town has authority to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence and other purposes, to provide

density credits or severable development rights for dedicated rights-of-way pursuant to G.S.136-66.10 or G.S.136.11 and other development requirements a provided in this ordinance. This Ordinance provides that a Board of Adjustment may determine and vary it's application in harmony with their general purpose and intent and in accordance with general or special rules herein contained. the Board of Adjustment may issue Special use permits, and the Town Council may issue Conditional use permits in the classes of cases or situations and in accordance with the principals, conditions, safeguards, and procedures specified and reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made for recreational space and facilities. When issuing or denying conditional use permits, the Town Council shall follow the procedures for Boards of Adjustment. Each permit decision of the Town Council shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court and notice to the Town Clerk within 30 days after the decision of the Town Council is filed in such office as the Ordinance specifies, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing of the case, whichever is later. The decision of the Town Council may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

b. This Zoning Ordinance establishes various zoning districts within the incorporated territory and the Extraterritorial Jurisdiction of the Town of Newport, within which it shall be lawful to erect, construct, alter or maintain certain buildings or to carry on certain trades or occupations or to conduct certain uses of land or of buildings, and consistent with regulations applicable to each such district, all as set forth in this

Ordinance. A use not listed as permitted is prohibited.

c. The Zoning Ordinance recognizes the importance to the community of all legitimate uses of land. The Ordinance further recognizes the need of all such uses to be protected from other uses, which are unrelated or incompatible. Thus, each district is exclusive with respect to other zoning district in the Ordinance, and industrial zoning districts are protected from encroachment by residential uses as firmly as residential districts are protected from industrial encroachment. A transitional type zoning classification may be established so as to serve as a buffer between two or more incompatible zones.

d. This Ordinance recognizes the importance to the public welfare of good designed and properly integrated developments in all districts of the Town. This Ordinance implements this principal through provisions for the review of the design of many structures and buildings, and by provisions to require site plan and landscaping review. It is not the intent of such provisions or regulations to stifle individual initiative or control individuals' taste by forcing adherence to any particular style of design, but rather to provide the minimum amount of direction necessary to encourage orderliness of development, appearance, and to preserve land values and use throughout the Town.

e. Site area, yard, off-street parking and other standards are based on the best accepted contemporary practice. A variance from the strict application of the standards in the Ordinance is available where compliance under special conditions would cause undue hardship and results inconsistent with the objectives of this Ordinance.

f. Uses which would adversely affect adjoining uses or the public welfare, unless regulated in a particular way or permitted only on certain conditions, may be allowed as "Special Uses" subject to review and approval by the Zoning Board of Adjustment, and

"Conditional Uses" subject to the review of the Planning Board and approval of the Town Council.

g. Industrial uses are subject to control by performance standards. This method enables potential nuisances to be measured factually and objectively in terms of the nuisance itself and protects any industry from arbitrary exclusion or persecution based solely on the characteristics of uncontrolled production in this type of industry in the past.

1-5 Validity, Repeal of Conflicting Ordinances.

a. Validity. The provisions of this Ordinance are hereby declared to be severable. If any part, section, provision, exception, sentence, clause, phrase, or the application thereof to any person or circumstances for any reason be adjudged to be invalid, the remainder of the Ordinance shall remain in full force and effect and its validity shall not be impaired, it being the legislative intent now hereby declared that this Ordinance would have been adopted even if such invalid matter had not been included herein, or if such application had not been made.

b. Conflict With Other Laws. (GS 160A-390) When regulations made under this Part require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, regulations made under authority of this part shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this part, the provisions of that statute or local ordinance or regulation shall govern.

1-6 Statute of Limitations. (GS 160A-364.1)

a. A cause of action as to the validity of any ordinance adoption or a zoning map or approving a special use, conditional use, or conditional zoning district request adopted under this Article or other applicable law shall accrue upon adoption of such ordinance and shall be brought within two months as provided in G.S. 1-54.1.

b. Refer to G.S. 160A-364.1 for other provisions relating to statute of limitations.

1-7 Territorial Jurisdiction (G.S. 160A-360)

a. the Town of Newport exercises its planning and zoning powers within the Town and Extraterritorial Jurisdiction in accordance with G.S. 160A-360.

b. A map delineating the boundaries of the Extraterritorial Jurisdiction is on file with the Town Clerk, the Zoning Administrator and the Carteret County Register of Deeds.

c. Should the Town desire to extend the boundary of the Extraterritorial Jurisdiction, the Town shall notify the owners of all parcels of land proposed for addition to the area of Extraterritorial Jurisdiction, as shown on the County tax records. The notice shall be sent by first-class mail to the last known address listed for affected property owners in the county tax records.

d. The notice shall inform the landowner of the effect of the extension of Extraterritorial Jurisdiction, of the landowner's right to participate in a public hearing prior to adoption of any ordinance extending the area of Extraterritorial Jurisdiction, as provided in G.S. 160A-364, and the right of all residents of the area to apply to the Board of county commissioners to serve as a representative on the Planning Board and the Board of Adjustment, as provided in G.S. 160A-362.

e. The notice shall be mailed at least four (4) weeks

prior to the public hearing. The person or persons mailing the notices shall certify to the Town council that the notices were sent by first class mail, and the certificate shall be deemed conclusive in the absent of fraud.

f. The boundaries specified in the Ordinance shall be drawn on a map, set forth in a written description, or shown by a combination of these techniques. This delineation shall be maintained in the manner provided in G.S. 160A-22 for the delineation of the corporate limits and shall be recorded in the office of the Register of Deeds of Carteret County.

g. the Town may extend it's Extraterritorial Jurisdiction into any area within 2 miles of the corporate limits that the County at that time has not adopted and is not enforcing a Zoning Ordinance, or when the Town and the County have agreed upon and will exercise the powers conferred by this Article. *Refer to Section 1-3 of this part for any limitations. The two (2) mile ETJ is authorized by a Special Bill of the legislature entitled "S.L. 1997-185, House Bill 604", adopted 16th day of 1997.*

h. When the Town annexes or extends it's jurisdiction to include an area that is currently being regulated by the County, the County regulations shall remain in effect until (i) the Town has adopted regulations, or (ii) a period of 60 days has elapsed following the annexation or extension, whichever is sooner. During this period the Town may hold hearings and take any other measures that may be required in order to adopt its regulations for the area. If after sixty (60) days has elapsed and the Town has not adopted it's regulations into the area, then the area is considered to be unzoned until the Town adopts such regulations.

i. Whenever the Town acquires jurisdiction that heretofore has been subject to the jurisdiction of another local government, any person who has acquired vested rights by the local government surrendering jurisdiction may exercise those rights

as if no change of jurisdiction had occurred.

j. the Town may take any action regarding such a permit, certificate, or other evidence of compliance that could have been taken by the local government surrendering jurisdiction pursuant to its ordinances and regulations.

1-8 Extraterritorial representation (G.S. 160A-362)

a. The Town is exercising Extraterritorial (ETJ) Zoning and Subdivision regulation powers and as such shall have representation to the Planning Board and Board of Adjustment in accordance with G.S. 160A-362 as herein provided.

b. Proportional representation based on population for residents of the ETJ area to be regulated shall be provided in the following manner.

c. When the population of the entire ETJ area constitutes a full fraction of the Town's population divided by the total membership of the Planning Board or Board of Adjustment. Representatives of the Planning Board and Board of Adjustment shall be appointed by the Carteret County Board of County Commissioners.

d. When selecting a new representative to the Planning Board or Board of Adjustment as a result of the extension of the extraterritorial Jurisdiction, the board of county commissioners shall hold a public hearing on the selection. A notice of the hearing shall be given once a week for two consecutive calendar weeks in a newspaper having general circulation in the area. The Board of County Commissioners shall select appointees only from those who apply at or before the public hearing. The county shall make the appointments within 45 days following the public hearing.

e. Once the Town provides proportional representation, no power available to the Town under

G.S. 160A-360 shall be ineffective in its ETJ area solely because county appointments have not yet been made.

f. If there is an insufficient number of qualified residents of the area to meet membership requirements, the Board of County Commissioners may appoint as many other residents of the county as necessary to make up the required number.

g. If the Board of County Commissioners fails to make these appointments within 90 days after receiving a resolution from the Town Council requesting that they be made, the Town Council may make them.

1-9 Town Council

a. It is further the intent of this Ordinance that the duties of the Town Council in connection with this Ordinance shall be to;

1. Consider, adopt or reject proposed amendments or the repeal of this Ordinance, and

2. To establish a schedule of fees and charges as stated in this Ordinance.

3. The duties of the Town Council shall not include hearing and deciding questions of interpretation and enforcement that arise.

4. (GS 160A-381) Hear and decide matters concerning Conditional Use permits that are specifically addressed in this Ordinance. When the Town Council is hearing a request for a Conditional Use Permit, it shall be subject to the same rules of procedure as the Board of Adjustment, except that no vote greater than a majority vote shall be required for the Council to issue or deny such permit.

b. The Council is authorized to subpoena any

witness(s) it deems necessary to give testimony under oath. If a witness does not comply, the Council is authorized to seek a court order compelling performance. Perjury before the Council constitutes a misdemeanor.

c. Every such decision of the Council shall be subject to review by the Carteret County Superior Court by proceedings in the nature of certiorari. Such review by the Court shall be filed, with notice to the Town Clerk, not later than thirty (30) days after the final decision of the Town Council, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing of the case, whichever is later.

d. The decision of the Town Council may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested. In the absence of an appeal within time specified, the decision of the Council shall be final.

1-10 Amendments, Rezoning

a. A petition for an amendment (to the Zoning Ordinance) or rezoning of property (a change to the zoning map) may be initiated by the Town Council, the Planning Board, any department or agency of the Town, or the owner of or duly authorized agent of the owner of any property within the zoning jurisdiction of the Town of Newport.

b. Any application for rezoning of property shall be filed with the Zoning Administrator at least fifteen days (15) prior to the Planning Board meeting at which it is to be heard. the Zoning Administrator shall be responsible for presenting the application to the Planning Board. Each application shall be in duplicate and contain at least the following information:

1. Signature of the applicant.

2. The applicant's name in full, the applicant's address and description of the property to be rezoned.

3. The applicant's interest in the property and the type of rezoning requested.

4. The names and address of all property owners within one hundred (100) feet of the property asked to be rezoned.

5. An accurate diagram of the property proposed for rezoning (if the proposed change would require a change in the zoning map), showing:
 - (a) all property lines with dimensions;
 - (b) adjoining streets with right-of-way and paving widths;
 - (c) the use of all land to be zoned; and
 - (d) zoning classification of all abutting zoning districts.

6. A statement regarding the changing conditions, if any, in the area or in the Town generally, that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

1-11 Application Filing and Administrative Fees.

- a. The Fee schedule to administer this Ordinance is contained in a separate Fee Schedule Ordinance adopted by the Town Council.

- b. Should administrative fees and costs exceed the stated fee schedule, then the additional costs shall

be paid by the applicant. All fees and costs shall be paid prior to the scheduled hearing upon the matter and any additional costs shall be paid prior to final action by the Board or Council.

1-12 Required Public Hearing

A public hearing shall be held by the Town Council before the adoption of any proposed rezoning of property or amendment to the Zoning Ordinance.

1-12.1 Notification (GS 160A-384 Method of Procedure)

a. In all cases, a notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper of general circulation in the Town of Newport, said notice to be published the first time not less than ten (10) days nor more than twenty five (25) days before the date fixed for the hearing. The day of the publication is not to be included but the day of the hearing shall be included.

b. Zoning Map Amendment. Whenever there is a zoning map amendment, the owners of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last address listed for such owners on the county tax listings.

1. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

2. Except for a Town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and the application is not made by the owner of the

parcel of land to which the amendment would apply, the applicant shall certify to the Town Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The person or persons required to provide notice shall certify to the Town Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud.

d. The first class mail notice required under subsection (b) of this Section shall not be required for the following situations:

(1) The zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners;

(2) the Town is adopting a water supply watershed protection program as required by G.S. 143-214.5.

d1. In any case where this subsection eliminates the notice required by subsection (b) of this section, and the Town elects to use the expanded published notice provided for in this subsection. the Town may elect either to make the mailed notice provided for in subsection (b) of this section or as an alternative may elect to publish once a week for two (2) successive calendar weeks (in a newspaper having general circulation in the area) an advertisement of the public hearing that shows boundaries of the area affected by the proposed zoning map amendment and explains the nature of the proposed change. The final two advertisements shall comply with and be deemed to satisfy the provisions of G.S. 160A-364.

d2. The advertisement shall not be less than one-half of a newspaper page in size. The notice shall be effective only for property owners who reside in the area of general circulation of the newspaper,

which publishes the notice. Property owners who reside outside of the Town's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the Town Council that fact, and the certificates shall be deemed conclusive in the absence of fraud.

d3. Actual notice of the proposed amendment and a copy of notice of public hearing required under subsection (a) of this section shall be by any manner permitted under G.S. 1A-1, Rule 4(j). If notice can not with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This subsection only applies to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply. This subsection does not apply to a Town-initiated zoning map amendment.

e. In addition to the published notice, the Town shall post a sign on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

f. Whenever there are Zoning Ordinance text amendments, minimum notification shall be in accordance with subsection a. of this part.

1-12.2 Application Withdrawal

a. Any application may be withdrawn prior to the advertisement of the public hearing at the discretion of the person initiating such a request, upon written notice to the Zoning Administrator.

b. the Town Council may allow withdrawal of an application during a public hearing should it find that there is a public benefit to be gained by modifying an application under consideration, and that significant public inconvenience would not result from consideration within one (1) year of the application.

1-12.3 Reconsideration

When the Town Council denies any application, it shall not thereafter accept any other application for the same change until the expiration of one (1) year from the date of such previous denial. For the purpose of this section, the Zoning Board shall determine whether the application is substantially the same as the previous application. These provisions shall not be held to impair the right of the Planning Board or the Town Council to propose amendments to the Zoning Ordinance at any time.

1-12.4 Protests Against an Amendment (G.S. 160A-385)

a. (GS 160A-385 (a) (1) Vote of Council. In the case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by a favorable vote of three-fourths of all members of the Town Council. For the purpose of this subsection, vacant positions on the council and members who are excused from voting shall not be considered "members of the Council" for calculation of the requisite super majority.

b. (GS 160A-385 (a) (2)) To qualify as a protest under this section, the petition must be signed by the owners of either (1) twenty (20%) percent or more of the area included in such proposed change, or (2) five percent (5%) of of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as the street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed

zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

c. (GS 160A-385 (a)(3) Protest not applicable to. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted (1) Special Use Permit, (2) Conditional Use Permit or (3) Conditional District if the amendment does not change the types of uses that are permitted within which district or increase the approved density for residential development, or increases the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the Special Use District, Conditional Use District, or Conditional District.

d. (GS 160A-386) Protest petition requirements. No protest against any change in or amendment to this Ordinance or zoning map shall be valid or effective for the purposes of this section unless it be in the form of a written petition actually bearing the signatures and physical address of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. A person who has signed a petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment. Only those protest petitions that meet the qualifying standards set forth in G.S. 160A-385 at the time of the vote on the zoning amendment shall trigger the super majority voting requirement.

d. (GS 160A-385 (b) Amendments not applicable to. Zoning amendments shall not be applicable or enforced without consent of the owner with regards to buildings and uses for which either (1) building permits have been issued pursuant to G.S. 160A-417 prior to the enactment of the Ordinance making change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (2) a vested right has been established pursuant to G.S. 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. 160A-385.1.

1-13 Vested Right (GS 160A-385.1)

a. A vested right shall be deemed established with respect to any property upon the valid approval, or conditional approval, of a site specific development plan or a phase development plan, (Hereafter "Plan") following notice and public hearing by the Town . Such vested right shall confer upon the property land owner the right to right to undertake and complete the development and use of said property under the terms and conditions of the plan including any amendments thereto.

b. The Town and Land Owner shall refer to and abide by all requirements and conditions of the North Carolina General Statutes , G.S. 160A-385.1, as from time to time may be amended, for compliance with this Section.

c. Petitioners for annexation shall file a signed statement of proof, with the Zoning Administrator, declaring whether vested rights have been established under this part for the properties subject to the petition. If the petitioner fails to disclose the existence of valid vested rights, any such rights shall be terminated.

1-14 Consideration of Conditional Use Permit and Rezoning.

a. It is the intent of this Ordinance that the applicant

for rezoning to any district other than Conditional Use District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property.

b. If the applicant believes that development of his property in a specific manner will lesson adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with principles underlying the Town's comprehensive zoning plan, he may apply for rezoning to the appropriate Conditional Use District and shall simultaneously apply for a Conditional Use Permit specifying the nature of his proposed development.

c. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

1-14.1 Request for Conditional Use Permit (CUP)

a. Request for CUP as authorized by this Ordinance in CU Districts shall be processed and considered by the same procedure as set forth in this Ordinance for rezoning requests and the voting procedure shall be the same as that required in zoning matters.

b. In considering an application for a CUP, the Town Council shall give due regard to the purpose and intent of this Ordinance, that public safety and welfare is secured and substantial justice done.

c. If the Town Council should find, after public hearing(s), that the proposed CUP should be granted, the Town Council may authorize the issuance of such permit. If the Town Council should find after the final hearing that the proposed CUP should not be granted, such proposed permit will be denied.

d. In granting a CUP, the Town Council may impose such reasonable and appropriate special

requirements, as it may deem necessary.

e. If all requirements and conditions imposed by the Town Council are accepted by the applicant, the Town Council will authorize the issuance of the CUP, otherwise the permit will be denied.

f. Any CUP so authorized shall be perpetually adhere to the property included in such permit unless subsequently changed or amended by the Town Council.

g. Final plans for any development to be made pursuant to any CUP shall be submitted to the Planning Board for review in the same manner as other development plans now required to be approved by the Planning Board. In approving such final plans, the Planning Board may vary the requirement(s) or condition(s) of such CUP where in the opinion of the Planning Board such variation will result in equal or better performance, provided however that the objective and purpose of CUP are maintained.

h. Any violation of a term of a CUP shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Where the Zoning Administrator determines that any term or condition of any CUP is not being adhered to, he shall notify the property owner of his findings by certified mail and/or in person and set a reasonable time for any violation to be corrected or abated. In any case, where any violation is not corrected or abated within a reasonable time as set by the Zoning Administrator, the Zoning Administrator or any person aggrieved may institute injunction, mandamus or other appropriate action in proceedings to correct or abate any violation. In the event that any violation is not promptly corrected or abated after a judicial determination that there has been such violation, the CUP shall become void and of no effect.

i. the Town Council may change or amend any CUP,

after a public hearing, upon recommendation by the Planning Board and subject to the same considerations as provided for in this article for the original issuance of a CUP. Provided, however, no proposal to amend or change any CUP shall be considered within six (6) months of the date of the original authorization of such permit or within six (6) months of the hearing of any previous proposal to amend or change any such permit.

1-15 Planning Board; Certification to the Town Council. (GS 160A-387, 160A-360, 160A-361, 160A-362, 160A-387)

a. In order to exercise the powers conferred by this Part, the Town Council shall create a Planning Board of any size membership but not fewer than three (3) members.

b. The Planning Board shall be authorized to make studies within its jurisdiction and surrounding areas:

1. Determine objectives to be sought in the development of the study area, prepare and adopt plans for achieving these objectives, develop and recommend policies, ordinances administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
2. Advise the Council concerning the use and amendment of means for carrying out plans, exercise any functions in the administration and enforcement of various means for carrying out plans that the Council may direct.
3. Perform any other related duties that the Council may direct.

c. The Planning Board may hold public information meetings in furtherance of its duties stated above.

d. The creation and/or any amendments to the

Planning and Development Ordinance shall be forwarded to the Town Council who shall hold its required public hearing. Following its required public hearing, the Town Council may refer the Ordinance or amendments back to the Planning Board for any further recommendations and comments that the Planning Board may want to consider prior to final action by the Town Council in adopting, modifying or rejecting the Ordinance or amendments.

e. The Planning Board will be composed generally of eight (8) members. Four (4) of the eight (8) members must reside inside the corporate limits of the Town. To meet the requirements of NCGS 160A-362, four (4) more members must reside in the ETJ to provide the necessary proportional representation.

f. Only those persons who have demonstrated their civic interest, general knowledge of the Town, independent judgment, interest in planning and zoning, the availability to prepare for and attend meetings, will be considered qualified for appointment to the Board.

g. It is the intent of the Council that members shall, by reasons of diversity in their individual occupations, constitute a Board which is broadly representative of the community.

h. Any member of the Town Council or Board of Adjustment may be called to serve as an alternate member of the Planning Board so as to conduct its business.

i. The Town Council may appoint, non voting, ex-officio members to the Planning Board. These member(s) would be generally appointed because of their professional expertise and desire to serve the public. These members shall not be counted as a required member for a quorum unless appointed to the position of "alternate" member and sitting at the table as such.

1-15.1 Terms of Office

a. In Town members shall serve at the discretion of the Town Council. The members shall have a primary residence within the corporate limits of the Town and be registered voters. Terms of office shall be arranged so as to have staggered terms of office of three (3) years each.

b. The Extraterritorial Representatives are appointed by the Carteret County Board of Commissioners after a resolution from the Town Council indicating that a vacancy exist within the Planning Board. The appointees shall have a primary residence within the Town's Extraterritorial Jurisdiction and be registered voters. Terms of office shall be arranged so as to have staggered terms of office of three (3) years each.

1-15.2 Voting

The extraterritorial members shall have equal rights, privileges, and duties with the other members of the Board, regardless of whether the matters at issue arise within the Town or within the Extraterritorial area.

1-15.3 Organization, Actions and Rules of Procedure

Rules of procedure shall be adopted by the Planning Board as standard operating procedures which may be amended from time to time by a majority vote of the Planning Board.

1-15.4 Supplemental Powers (160A-363)

a The Town Council is authorized to make any appropriations that may be necessary to carry out any activities or contracts authorized by this Article (160A-363) or to support, and compensate members of, any Planning Board that it may create pursuant to this Article, and to levy taxes for these purposes as a necessary expense.

b The Town is authorized to combine any of the ordinances authorized by this Article into a unified development ordinance.

1-15.5 Administrative Review

the Planning Board shall have ninety (90) days from the regular scheduled meeting at which any proposed amendment to zoning is presented within which to make a decision on the matter unless initiated by the Planning Board, or cases related to annexation. If the Planning Board fails to make a decision and submit a report within the above period, it shall be deemed to have approved the proposed application. The Planning Board may hold separate public hearings or sit concurrently at the public hearing held by the Town Council.

1-16 ZONING Board of Adjustment (GS 160A-388)**1-16.1 Creation**

As provided by the North Carolina General Statutes (G.S. 160A-388) the Town has created the Board of Adjustment.

1-16.2 Appointment of Members and Terms of Office

a. The Board of Adjustment shall consist of and may be compensated for five (5) or more members members, each to be appointed for three years. In appointing members or filling vacancies caused by the expiration of the terms of existing members, the Town council may appoint certain members for less than three years so that the terms of all members shall not expire at the same time.

b. Alternate Members. The Town Council may appoint and provide compensation for alternate members to the Board of Adjustment. Alternate members shall be appointed for three (3) year terms in the same manner and at the same time as regular

members. Each alternate member while attending any regular meeting of the Board and while serving in the absence of any regular member shall have and may exercise all the powers and duties of a regular member. Any member of the Town Council or Planning Board may serve as an alternate member to satisfy the minimum required for the Board to conduct its business.

c. The board is generally composed of eight regular members. Four members shall reside inside the corporate limits of the Town and four (4) members shall reside in the ETJ to provide the necessary proportional representation. Those members residing in the ETJ shall be appointed by the Carteret County Board of Commissioners.

d. The Town may recommend to the County Board of Commissioners the selection of ETJ members. It is desired that the County Board honor the desires of the Town in their selection.

f. In the absence of a Board of Adjustment, the Town Council may appoint the Planning Board to serve in the interim in addition to its other duties.

1-16.3 Quasi-Judicial Decisions and Judicial Review (160A-388 (e2))

a. The Board shall determine contested *facts* and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

b. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards.

c. The written decision shall be signed by the chair or other duly authorized member of the board.

d. The quasi-judicial decision is effective upon filing

the written decision with the Clerk to the Board or such other office or official as the ordinance specifies.

e. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective, the person required to provide notice shall certify that proper notice has been made.

f. Every quasi-judicial decision shall be subject to review by the Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160A-393.

g. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (a) of this subsection. When first class mail is used to deliver notice, three days shall be added to the time to file the petition.

1-16.4 Extraterritorial Representation (160A-362)

a. Members within the Extraterritorial Jurisdiction of the Town municipal limits shall be appointed by the Carteret County Board of Commissioners within ninety (90) days of receiving a resolution from the Town requesting that the appointment(s) be made. Upon failure to do so by the time prescribed, the Town Council may appoint said members.

b. The power of the Board of Adjustment to conduct business is not affected by the failure of the County to make prompt appointments to the Board.

1-16.5 Rules of Procedure

The Board may create and adopt rules of procedure which may be amended as the board determines necessary.

The rules of procedure are ment to provide guidance and clarification on things such as how meetings are conducted, and interpretation of matters contained in this subsection. The rules of procedure may contain or reference any other documents determined to be helpful in administering and conducting various issues that may be brought before the board.

1-16.6 Voting

a. The extraterritorial members shall have *equal rights, privileges, and duties* as the other members of the Board, regardless of whether the matters at issue arise within the Town or within the Extraterritorial Jurisdiction.

b. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no alternates available to take the place of such member.

c. A member of the Board or any other body exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional right to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing a matter that is not susceptible to change, undisclosed ex parte communications, a close family, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

d. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

e. Variance Vote. The concurring vote of *four-fifths* of the board shall be necessary to grant a variance.

f. Quasi-judicial Matters other Than Variance. A *majority* of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.

1-16.7 Conflict of Interest

A member of any board exercising quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.

1. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change,
2. undisclosed ex parte communications, a close friend, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
3. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote on the objection.

1-16.8 Powers and Duties

the Board of Adjustment shall have the following powers and duties:

- a. The Board of Adjustment shall hear and decide special use permits, requests for variances and appeals of decisions of administrative officials charged with enforcement of the ordinance.
- b. The Town council shall hear and decide Conditional Use Zoning, Conditional Use Permits and Planned Unit Developments Permits. Anytime the Council is hearing and deciding quasi-judicial

matters authorized by this subsection shall follow all procedural requirements in this subsection.

c. As used in this section, the term “decision” includes any final and binding order, requirement, or determination. The Board of Adjustment or Town Council shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits.

d. The Board of Adjustment shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use development.

1-16.9 Oaths

The Chair of the Board, or any member acting as Chair, and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

1-16-10 Subpoenas

a. The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, subpoena witnesses and compel the production of evidence.

b. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled.

c. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive.

d. The chair shall rule on any motion to squash or modify a subpoena. Decisions regarding subpoenas

made by the chair may be appealed to the full Board of Adjustment.

e. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the Court shall have jurisdiction to issue these orders after notice to all proper parties.

1-16.11 Notice of Hearings

a. Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing:

1. to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing;
2. to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing;
3. and to any other persons entitled to receive notice as provided by the zoning development ordinance.
4. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.
5. Within that same time period, the Town shall also post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

1-16.12 Appeals (160A-388 (b1), 160A-393)

a. The Board of Adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the zoning and development ordinance and hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

1. any person who has standing under G.S. 160A-393(d) or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.

2. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.

3. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

b. The owner or other party shall have 30 days from the receipt of the written notice within which to file an appeal. Any person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

c. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "ZONING decision" or "SUBDIVISION DECISION" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is subject of the decision, provided the sign remains on the property for at least 10 days.

d. Posting of signs is not the only form of

constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.

e. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

f. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permission to use such property:

1. in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

f. Subject to the provisions of subsection e. of this section, the Board of Adjustment shall hear and

decide the appeal within a reasonable time.

g. The official who made the decision shall be present at the hearing as a witness. The applicant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

1. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

h. When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).

i. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution. The ordinance may set standards and procedures to facilitate and manage such voluntary alternative dispute resolution.

1-17 Interpret Zoning Map

The Board of Adjustment shall interpret and pass upon disputed questions of lot lines or district boundary lines and similar questions that may arise in the administration of this Ordinance.

1-18 Special and Conditional Use Permits

The Board of Adjustment shall hear and decide special use permits. The Town council will hear and decide conditional use permits

1-18.1 Application for Special and/or Conditional Use Permit.

a. Any property owner, developer, optionee, prospective occupant, lessee, government official, department, board or bureau may file with the Zoning Administrator an application for a special use permit; provided that the special use sought is permitted in the particular district; and provided further that in case the applicant is other than the owner, the application shall also be signed by the owner of the property.

b. The application shall be accompanied by a plan showing the actual dimensions and shape of the lot, the sizes and locations on the lot of existing buildings, if any, and the existing and proposed uses of structures and open areas; and such additional information relating to topography, access, and surrounding land uses as the Zoning Administrator directs.

1-18.2 Action of the Zoning Administrator.

a. After receiving the application, the Zoning Administrator shall review all pertinent related material for completeness and applicability to the Ordinance, and receive comments from other Town departments that may be impacted by the permit. Upon completion of such review.

b. If the Zoning Administrator shall determine that any proposal in the application does not meet the requirements of this Ordinance and in the absence of an appeal, he shall reject the application and return it forthwith with its accompanying fee, to the applicant.

c. If the application does meet the requirements of the Ordinance, the Zoning Administrator shall transmit all the findings and recommendations of the Town departments to the Board.

d. The Zoning Administrator shall notify the chairman of the Board of Adjustment who shall set a date and

time for a public hearing within a reasonable time.

1-18.3 Hearing the Special Use Permit

a. After receiving the recommendations from Town departments as appropriate the Board shall act upon the proposed permit, granting the application in whole or in part, with or without modifications, or denying it.

b. In addition to the general or specific requirements set forth in this Ordinance concerning the proposed use, which shall be considered minimum requirements with respect to the permit, additional requirements, conditions, and safeguards may be added by the Board as required for the protection of public interest in the specific case.

1-18.4 Rehearing the Special Use Permit.

a. Where the Board finds that there is public benefit to be gained by modifying a Special Use Permit under consideration, and that significant public inconvenience would not result from consideration within one (1) year of the modified request.

b. It may allow withdrawal of an application for Special Use Permit during public hearing.

c. However, if the permit is denied by the Board, substantially the same application shall not be filed within one (1) year of denial.

1-18.5 Terms of the Special Use Permit.

a. Unless otherwise provided when a Special Use permit is issued, the applicant must show and produce evidence in good faith of his intention to proceed with the construction and/or use of land.

b. Construction shall begin or the use of land for which a special use permit has been obtained shall commence, within twenty-four (24) months from the date of issuance of said permit; otherwise, said

permit shall be void.

c. Once the Special Use Permit is activated by commencement of construction or use, the general and specific conditions attached to the use permit shall constitute additional zoning regulations and requirements for the site which to the extent of any conflict shall supersede the zoning district regulation.

d. Notwithstanding anything in the zoning district regulations to the contrary, no uses other than those set forth in the use permit and those uses accessory thereto shall be allowed on the site until (1) the special use is removed in its entirety from the site, or (2) the Board allows modifications to the conditions or terminates the use permit in whole or in part.

e. Construction or use shall be deemed to have been initiated when any part of the structure, including foundation, has been put in place.

1-18-6 Revocation of Special Use Permit.

If the provisions of this Ordinance or the requirements of the special use permit are not met, then the Board may revoke the Special Use Permit provided that ten (10) days written notice is given to the applicant and a public hearing is held.

1-18.7 Compliance with Requirements.

a. No special use permit shall be issued except upon a finding by the Board that the proposed use conforms to the requirements set forth in this Ordinance together with conditions attached.

b. It must be compatible with the neighborhood in which it is to be located, both in terms of existing land uses and uses permitted by right in the area.

c. Among matters to be considered in this connection are traffic flow and control; access to and circulation within the property; off-street parking and loading; refuse and service areas; utilities; screens and buffering; signs, yards and open spaces;

landscaping; height, bulk and location of structures; location of proposed open space uses; hours and manner of operation; and noise, light, dust, odor, fumes and vibrations.

b. Any person aggrieved by the decision of the Board may appeal to the Carteret County Superior Court. A request for review by the Court shall be filed, with notice to the Town Clerk, not later than thirty (30) days after the final decision of the Board of Adjustment. In the absence of an appeal within time specified, the decision of the Board shall be final.

1-18-8 Variance, General Provisions

a. When unnecessary hardships would result from carrying out the strict letter of the Zoning Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of **all** of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. *It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. *Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

3. The hardship did not result from actions taken by the applicant or the property owner. *The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. ***No change in permitted uses may be authorized by variance.***

b. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

c. Any other ordinance that regulates land use or development may provide for variances

d. In granting a variance, the Board of Adjustment shall not, in effect, amend the zoning ordinance.

e. If the Board of Adjustment determines that the variance sought would be better served by correcting a situation in the ordinance, then the variance shall be denied.

f. The board may refer the appellant to the planning department for consideration of a zoning amendment.

1-19 Zoning Administrator

the Zoning Administrator is hereby authorized to enforce and administer the provisions of this Ordinance. If a ruling of the Zoning Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment, and recourse from the decisions of the Board of Adjustment shall be to the Courts as provided by law.

1-20 Building/Zoning Permit Required

No building, sign, or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the

Building Inspector issues a building permit for such work.

1-21 Building Inspector

a. The Building Inspector shall coordinate all building permits with the Zoning Administrator. All other requirements and procedures of the Building Inspector shall be in accordance with policies and requirements of the Town Council and the North Carolina Building Code or otherwise provided by law.

b. The Building Inspector shall administer and enforce all matters relating to the Building Code.

c. Should a question of authority arise, the Building Inspector is only authorized to administer building code matters and the Zoning Administrator is only authorized to administer zoning matters.

NOTE

The Building Inspector may be designated by the Town, additional duties of Assistant to the Zoning Administrator and as such has full authority and responsibility to do so. the Zoning Administrator or Town Planner shall not interpret or enforce North Carolina Building Laws unless Certified by the North Carolina Code Officials Qualification Board to do so.

1-21.1 Inspections of Work in Progress

As the work pursuant to a permit progresses, the Zoning Administrator or Building Inspector, as appropriate, shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the Zoning Ordinance and the terms of the permit. In exercising this power, the Zoning Administrator or Building Inspector has a right, upon presentation of proper credentials, to enter on any premises within the Town limits or territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

1-21.2 Remedies and/or Enforcement (G.S. 160A-389)

a. the Zoning Administrator, or Building Inspector as appropriate, may provide for the enforcement of this Ordinance by means of withholding building permits, zoning permits and occupancy permits.

b. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Part or any ordinance or other regulation made under authority conferred hereby, the Town, in addition to other remedies, may:

1. institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use,

2. to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land,

3. or to prevent any illegal act, conduct, business or use in or about the premises.

1-21.3 Stop Orders

a. Whenever a building or part thereof is being constructed, reconstructed, altered, repaired or used, or any land is being disturbed or used in violation of this Ordinance or the Building Code the Zoning Administrator or Building Inspector, as appropriate, may order the work to be immediately stopped.

b. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop order constitutes a misdemeanor.

1-21.4 Revocation of Permits

a. the Zoning Administrator or Building Inspector, as appropriate, may revoke and require the return of the zoning, development, building and/or occupancy permit by notifying the permit holder in writing stating the reason for the revocation.

b. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit.

c. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

1-21.5 Certificate of Occupancy Required

A Certificate of Occupancy issued by the Building Inspector or Zoning Administrator, as appropriate, is required in advance of occupancy or a change of use of any building or land.

1-22 Violations and Penalties

a. When the Zoning Administrator or Building Inspector finds violations of applicable State and local laws, it shall be his/her duty to notify the owner or occupant, as appropriate, of the building or land of the violation. The owner or occupant shall each immediately remedy the violations of law.

b. If work, which in all respects would normally be permitted, is begun without proper permit(s) having first been obtained, subsequent permit(s) shall be issued after payment of the required fees, plus a penalty as specified in this Article.

1-22.1 Actions in Event of Failure to Take Corrective Action

Where the owner or occupant as appropriate of a building or property shall fail to take prompt corrective action, the Zoning Administrator or Building Inspector, as appropriate, shall give written notice, by certified or registered mail to the last known address or by personal service:

1. That the building or property is in violation of the Zoning Ordinance, Building Code or Minimum Housing Standards Ordinance and indicate the applicable section;
2. That a hearing will be held before the Zoning Administrator or Building Inspector as appropriate at a designated place and time, not earlier than 10 days and not later than thirty (30) days after the date of the notice, at which time the defendant shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
3. That following the hearing of a violation found, the Zoning Administrator or Building Inspector may issue such order as may be necessary to remedy a violation of this Ordinance.

1-22.2 Hearing

The hearing is an administrative review of the Zoning Ordinance, Minimum Housing Standards Ordinance or Building Code violation and is an opportunity for the person served with the violation to hear the charges and to present any evidence on his behalf.

1-22.3 Order to take Corrective Action

a. If, upon a hearing held pursuant to the notice prescribed above, the Zoning Administrator or Building Inspector, as appropriate, shall find that the building or land use is in violation of the Zoning Ordinance, he/she shall issue an order in writing to

the owner or occupant, requiring him/her to remedy the violation within sixty (60) days.

b. The Zoning Administrator or Building Inspector may order that corrective action be taken in such lesser period as may be feasible or where there is a finding that imminent danger to life or property exists.

1-22.4 Appeal

a. Any owner/occupant who has received a stop order or an order to take corrective action may appeal to the Board of Adjustment, by giving notice of appeal in writing to the Zoning Administrator and the Town Clerk within 10 days following issuance of the final order.

b. In the absence of an appeal, the order of the Zoning Administrator shall be final. the Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify or revoke the order.

c. An appeal from a Building Code violation or stop order shall be taken to the North Carolina Insurance Commissioner as provided for in the North Carolina Building Code: Administrative Code and Policies.

1-23 Remedies (G.S. 160A-389)

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this part or any part of any Ordinance or a regulation made under authority conferred by any Ordinance, the Zoning Administrator or Building Inspector, as appropriate, in addition to other remedies, may institute any appropriate action or proceedings to prevent occurrence.

1-23.1 Criminal Penalties

a. If the owner/occupant of a building or property fails to comply with an order to take corrective action

from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he/she/it shall be guilty of a misdemeanor.

b. Upon conviction he/she/it shall be punished for each offense by a fine not to exceed five hundred (\$500.00) dollars. Each day such violation continues shall be deemed a separate offense.

1-23.2 Civil Penalties

a. A notice of violation may be issued for minor violation(s) which notice shall specify a penalty of: \$35.00 for the first offense, \$100.00 for the second offense, \$250.00 for third and subsequent offense within any one (1) calendar year.

b. Penalties are to be paid not later than thirty (30) days after said notice, by the Town Clerk to be deposited into the general fund of the Town.

c. Should the civil penalty not be paid within time specified, then the Town may bring action in court to enforce the penalty.

d. Any continuation or re occurrence of the same violation after the time specified to cease or correct on the notice of violation constitutes a separate offense.

1-24 Complaints Regarding Violations

When a violation of this Ordinance occurs, or is alleged to have occurred, any aggrieved person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Zoning Administrator or Building Inspector as appropriate. He shall record the complaint and if appropriate, investigate within ten (10) days, and take action thereon as provided in these regulations.

ARTICLE II**INTERPRETATIONS AND DEFINITIONS****2-1 WORD INTERPRETATIONS**

For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definitions. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure", the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used, and the word "shall" is mandatory and not directory. The word "person" includes a firm, association, organization, llc, partnership, trust, company or corporation as well as an individual. The word "may" is permissive. The word 'lot' includes the word 'plot, parcel, site and premises'.

2-1.1 The words "map" "Zoning Map" and "Newport Zoning Map" shall mean the "Official Zoning Map for the Town of Newport, North Carolina."

2-1.2 The word "Town" shall mean the "Town of Newport, a municipal corporation of the State of North Carolina".

2-1.3 The words 'this ordinance' and 'regulation' shall mean the 'Official Zoning Ordinance for the Town of Newport, North Carolina'.

2-1.4 The words "Planning Board" shall mean the "Town of Newport Planning Board".

2-1.5 The words "Town Council" shall mean the "Town Council of the Town of Newport, North Carolina".

2-1.6 The words "Board of Adjustment" shall mean the "Town of Newport Board of Adjustment".

2-2 TERM DEFINITIONS

Accessory Building and Use. A subordinate building or use which is incidental to that of the principal building or use.

1. Designed for the comfort, convenience or necessity of occupants of the principal use served.
2. Located on the same zoning lot as the principal building or use served, with the single exception of accessory parking facilities properly located elsewhere.

Adjoining lot. Land immediately adjacent to the lot in question, including lots located immediately across streets, alleys, and water courses of less than one hundred (100) feet in width, drainage easements and other rights-of-way.

Administrator, Zoning. The person, officer, or official and his authorized representative, whom the Town Council has designated as its agent for the administration and enforcement of these regulations.

Adult Bar. An adult entertainment facility or building where the primary service or sales is on-premise sale and consumption of beer, wine or other fortified beverage. On-premise food consumption may be served incidental to the primary business.

Adult Book Store. An establishment having as a substantial portion of its stock in trade, books, magazines, films for sale or view on the premises, and periodicals which are characterized by their emphasis on sexual subject matter.

Adult Entertainment Cabaret. A nightclub, theater or other establishment which features performance by topless dancers, strippers or similar entertainers where such performances are distinguished or characterized by sexual exploitation.

Adult Entertainment Establishments. Any premise, building, structure or place where adult uses are conducted.

Adult Massage Parlor. Any place where any form of gratuity occurs in connection with sexual conduct as a result of a massage, or any other treatment or manipulation of the human body.

Adult Motion Picture Theater. A building or structure used regularly or routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting sexual activity (or as characterized by the motion picture code as "X rated").

Adult Uses. Uses including but not limited to, adult book store/video store, adult entertainment cabaret, adult massage parlor, adult motion picture theater, adult bar, adult night club, adult live entertainment business and all girl staff.

Agent of Owner. Any person who can show written authority that he is acting for the property owner.

Agriculture. The use of the land for farming, pasture, horticulture, floriculture, hydro culture, viticulture, apiaries, and animal husbandry, and the necessary accessory buildings and uses provided, that the operation of any such accessory building and use shall be incidental to that of normal agricultural activities.

All Girl Staff. Any establishment where a person is consoled, entertained, or accompanied by someone of the same or opposite sex on matters that contain sexual connotations such as accompanying some one to view an adult movie. This definition does not apply to licensed professional therapist, psychiatrist, etc.

Alley. A public or private way not less than twenty (20) feet wide which affords secondary means of access to abutting property and may be dedicated

and accepted for public use and which may also provide use for public utility purposes.

Alter or Alteration. Any change or modification in construction, use or occupancy.

Antenna: Equipment used for transmitting or receiving radio frequency signals which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omni directional "whip" antennae.

Antenna, Stealth: Wireless telecommunication antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

Anemometer: An instrument that measures wind speed and might transmit that wind speed data to a controller.

Applicant: As used herein, one who applies, and is either the Owner or one who represents the Owner/Operator whether the owner is a private person, partnership or corporation.

Arcade. A business established principally for the operation of coin or token game machines. It does not include on or off premises sale or consumption of fortified or unfortified wines or malt beverages. Any business which operates more than five game machines shall be considered an arcade.

Apartment. See Dwelling, Multi-Family.

Appeal. A request for a review of a local administrator's interpretation of any provision of this Ordinance or a request for a variance.

Auction House. A commercial business for the auctioning of general merchandise, operated under the purview of NC General Statutes, Chapter 85.

Automobile repair, major. General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers; collision service including body, frame, or fender straightening or repair; overall painting or paint shop.

Automobile repair, minor. Upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1-1/2) tons capacity, but not including any operation named under "Automobile repair, major" or any other operation similar thereto.

Automobile, boat or trailer sales lot. An open lot used for display, sale or rental of new or used motor vehicles, boats or trailers of any kind in operative condition and where no repair work is done.

Automobile service or filling station. A place of retail business at which outdoor automotive refueling is carried on using fixed dispensing equipment connected to storage tanks by a closed system of piping and/or at which goods and services generally required in the operating and maintenance of motor vehicles and fulfilling of motorist needs may also be available. The building may consist of a sales office where automotive accessories and packaged automotive supplies may be kept or displayed. It may also include one or more service bays in which vehicle washing, lubrication and minor replacement, adjustment and repair services are rendered.

Automobile wrecking. The dismantling or disassembling of motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts.

Baby sitting. See Family day care home.

Bar. A facility or building where the primary service or sales are on-premise sale and consumption of beer, wine or other fortified beverage. On-premise food consumption may be served incidental to the

primary business.

Bed & breakfast. See Tourist House.

Billboard. See Sign, Outdoor Advertising.

Blade Glint. The intermittent reflection of the sun off the surface of blades of one or more wind turbines.

Block. A parcel of land intended for urban purposes which oftentimes includes one or more lots and which is entirely surrounded by public streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels or a combination thereof.

Board of Adjustment. The Board of adjustment is comprised of the members of the Zoning Board of Adjustment that is established by the Zoning and Development Ordinance. The Board is established to hear and decide upon Special Use Permits, Variances, Appeals and any other duties as required of this Ordinance.

Boarding House. A dwelling other than a hotel or motel in which sleeping accommodations and/or meals are provided or offered for compensation for three or more persons; or a dwelling unit accommodating six (6) or more unrelated persons living together as a housekeeping unit.

Boat yard. A commercial enterprise where boats are constructed, dismantled, stored, serviced or repaired, including maintenance work thereon.

Bona Fide Farm. Any tract of land containing at least three acres which is used for dairying or the raising of agricultural products, forest products, livestock (domestic) or poultry, and may include facilities for the sale of such products on the premises where produced, provided that a farm shall not be construed to include commercial poultry and swine breeding or raising, cattle feed lots or breeding or raising of fur-bearing animals.

Borrow Pit. Any operation involving the breaking or disturbing of the surface soil or rock where the primary purpose of the operation is to facilitate or accomplish the extraction or removal of sand, soil, gravel, or other similar material (rather than to produce the hole from which the material comes) and to transport the material or cause it to be transported off the site of the borrow pit operation. Specifically exempt from this definition are the following:

1. Any excavation for roads, drainage, or similar features necessarily incidental to, and in accordance with, the approved construction plans for a residential subdivision or other similar development activity, even though the excavated material may be hauled off-site or sold.

2. Any excavation for the purpose of conducting a bona fide agricultural operation, including but not limited to excavations to improve drainage, provide watering facilities for livestock, or create a holding lagoon for animal waste.

3. Any excavation which is less than ten thousand (10,000) square feet in area and less than one thousand (1,000) cubic yards in volume.

4. Any trench, ditch or hole for utility lines, drainage pipes or other similar public works facilities or projects where the excavation is in accordance with the approved construction plans.

Building. Any structure, which has a roof and which is designed for the shelter, support or enclosure of persons, animals, or property of any kind. See Structure.

Building Height. Measured from the average height of the ground within five (5) feet from the building foundation, vertically to the mean peak of the roof on the tallest portion of the primary building.

Building Line. See Setback Line.

Bulk Storage Yard. A facility for the storage of raw materials, furnished goods or vehicles, provided they are in good running order. No sale, storage or processing of scrap, salvage, a junk, toxic or hazardous material is allowed.

Child Care. (G.S. 110-86) A program or arrangement where three or more children less than 13 years old, who do not reside where the care is given, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. Refer to G.S. 110-86 for exceptions, exclusions and other lawful requirements.

Church, Club or lodge, private. An incorporated or unincorporated association for religious, charitable or eleemosynary activities, operated on a non-profit basis for the benefit of its members.

Clinic. An office building or group of offices wherein only persons engaged in the practice of a medical profession or occupation are located, but which does not have beds for overnight care of patients. A "medical profession or occupation" is any activity involving the diagnosis, cure, treatment, mitigation, or prevention of disease or which affects any bodily function or structure.

Co-location: The location of wireless telecommunications equipment for more than one provider on one common tower, building or structure.

Commercial practicability or commercially impracticable. The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render

an act or the terms of an agreement " commercially impracticable".

Community service organization, club or lodge, private. Any organization, group, society, corporation, institution, Club, or Lodge, charitable, educational, fraternal, political, scientific, or literary purposes, or other entity, no part of the net earning of which inures to the benefit of any private stockholder or individual.

Companion unit. An attached or detached subordinate dwelling unit located on the same lot with a primary dwelling to house a family member who requires daily medical or personal care or to house a housekeeper or care-person to care for someone in the primary dwelling.

Completed application. An application that contains all information and/or data necessary to enable an informed decision to be made with respect to that application.

Conditional Use Permit. Is a Zoning Permit in all respects the same as a Special Use Permit except, it is one that is considered for approval by the Town Council. Refer to the definition of a Special Use Permit.

Conservation Area. Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species, or habitat for such species, or habitat for such species; archaeological sites , cemeteries, and burial grounds; important historic sites; other significant features and scenic viewsheds; and existing trails or corridors that connect the tract to neighboring areas.

Convalescent Facility. Any institution, place, building or agency which maintains and operates organized facilities for convalescence, including care and treatment of chronic illness for twenty (20) or

more persons and may not provide general hospital medical care.

Court. An open unoccupied space, other than a yard, on the same lot with a building or group of buildings.

Curb Cut. A lowered or cut away curb for purposes of ingress or egress to property abutting a public street.

Day-care. (G.S. 110-86) See Child Care.

Day-care facility. (G.S. 110-86) See Child Care and North Carolina Building Code for requirements.

Deciduous. A wood perennial plant, either tree or shrub form, which at a certain stage of development in its life cycle sheds or dislodges its foliage or leaves (usually seasonal).

Density. The number of dwelling or lodging units per gross acre.

Developer. An owner, or any person with written authorization from the owner, who intends to improve or construct improvements upon a given property.

Development. Any man-made change to improve 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.

Development permit. A type of building permit that additionally contains the information required of an application for development specified by this Ordinance.

Director of planning. The Director of Planning or Town Planner of the Town of Newport, North Carolina.

District, Zoning. geographical area of the Town of

Newport within which the zoning regulations are uniform.

Drive-in eating and drinking establishments. Any eating and drinking establishment encouraging the consumption of food or beverages in automobiles through the use of outside service personnel. This does not include those restaurants which only contain drive-in or walk-up service windows.

Drive-in or drive-up services. Any use, establishment, operation or business where customers or patrons can drive up in motor vehicles to conduct business, or be served items for consumption, while such persons remain in the motor vehicles; provided, however, that this definition shall not include gasoline stations and/or car washes.

Duplex. See Dwelling, Two Family (Duplex).

Dwelling. A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, Single Family. A dwelling designed for or used exclusively for residence purposes by one (1) family.

Dwelling, Two Family (Duplex). A building containing two (2) dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot. Mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing are not included within this definition.

Dwelling, Multi Family. A building containing three (3) or more dwelling units, entirely surrounded by a yard, where each dwelling unit is not on a separate lot, and which includes apartments, hotel apartments, and group housing.

Dwelling group. A group of two (2) or more detached dwellings having any yard or court in common.

Dwelling Unit. A building or portion thereof, providing complete living facilities for one family.

Easement. A grant by the property owner for the use, by the public, a corporation or person of a strip of land for specific purposes.

Evergreen. A woody perennial plant, either tree or shrub form, on which foliage remains green and functional through more than one growing season.

FAA. The Federal Aviation Administration or successor agency.

FCC. The Federal Communications Commission or successor agency.

Family. An individual, two (2) or more persons related by blood, marriage or law, or a group of not more than five (5) persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two or more persons related by blood, marriage or law, are a part of the family for this code.

Family care home. (NCGS Chapter 168-21, Article 3) A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident persons with disabilities. "Person with disabilities" means a person with temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Family Care Home; zoning and other purposes. (G.S. 168-22) A family care home shall be deemed a residential use of property for zoning purposes and shall be a permitted use in all residential districts of all political subdivisions.

Family day care homes. See "Child Day Care Home."

Frontage, lot. The mean distance between the two side lot lines which abuts a street.

Garage. A structure or any portion thereof the purpose of which is where in which one (1) or more automobiles may be housed, kept, or repaired, not including exhibition or showrooms, or storage of cars for sale.

Garage, Private. An accessory building used for storage purposes only and which is provided primarily for the occupants of buildings on the premise on which such a garage is accessory, and in which no business, service or industry connected directly or indirectly with automotive vehicles is carried on.

Grade. The lowest point of the elevation of the finished surface of the ground between the exterior wall of a building and a point five (5) feet distant from said wall.

Gross floor area. The floor area enclosed within the walls of a building and measured from the outside finished surface of said wall, expressed in square feet and fractions thereof.

Ground cover. The planting of low growing plants that cover the ground or exposed earth in place of turf which at maturity shall not exceed a height which would restrict view within intersection and driveway site distance triangles.

Guest House. A dwelling or lodging unit for nonpaying guests in an accessory building. Could

also be used to house family members.

Habitable trailer. A generic term for any of those vehicles for human habitation which are designed to be mobile but do not contain their own motive power.

Hedge. The close planting of shrubs which form a compact, dense, visual opaque, living barrier when mature.

Height. See Building Height definition. As applies to wind turbines, the distance from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightening protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Grade. A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or between the building and a point 6 ft., from the building, whichever is closer to the building.

Height: As it relates to Wind Energy Facility, the distance measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as lightning protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Home Occupation. A use conducted entirely within a building, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which complies with the conditions of home occupations contained within this Ordinance.

Homeowners Association. An incorporated, nonprofit organization made up of homeowners in a specified subdivision or subdivisions, that is responsible for maintenance and operation of neighborhood recreation facilities or other

community facilities or functions, and that assesses its members fees or dues to pay the cost thereof.

Hospital. Any institution, place, building or agency which maintains and operates organized facilities for six (6) or more persons for the purpose of medical diagnosis, care, and treatment including acute illness, and care during and after pregnancy, or which maintains and operates organized facilities for such purposes, and to which persons may be admitted for overnight stay or a longer period.

Hotel. Any building or group of attached or detached buildings with six (6) or more guest rooms used or intended or designed to be used, ord for sleeping purposes by guests.

House Bill 484. General Assembly of North Carolina Session 2013. House Bill 484. Ratified May 17,2013. A BILL TO BE ENTITLED, AN ACT TO ESTABLISH A PERMITTING PROGRAM FOR THE SITING AND OPERATION OF WIND ENERGY FACILITIES. Amended Chapter 143 of the General Statutes by adding a new Article 21C. "Permitting of Wind Energy Facilities" and adding definitions to GS 143-215.115, adding requirements and procedures to G.S.143-215.116 through G.S.143-215.126

Indigenous. Having originated in and being produced, growing, living or occurring naturally within a particular region or environment.

Impermeable lot coverage. Any permanent installation on or improvement to the natural earth surface which completely or partially prevents the absorption of precipitation and surface water in a natural manner, said coverage to be expressed as a percentage of net land area of the lot. For the purpose of computing impermeable lot coverage, the following enumerated items and like installations shall be construed to be impermeable; building coverage, driveways, sidewalks, patios, pool decks, wooden decks, cut stone or tile walkways, or gravel surfacing.

Illumination, indirect. Illumination from sources concealed behind opaque surfaces including but not limited to concealed flood lighting, remote source lighting, recessed cove lighting and reverse pan channel sign letters.

Illumination interior. Illumination from behind a translucent surface.

Illumination, light source Illumination from visible light sources including but not limited to exposed neon tubing or exposed incandescent or fluorescent lamps.

Junk Yard. Use of property where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, wrecked or damaged motor vehicle insurance storage yards, house wrecking yards, used lumber yards and places or yards for storage of salvage house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawn shops and establishments for sale, purchase or storage of used furniture and household equipment, used cars in operative condition, or salvage materials incidental to manufacturing operations.

Kennel, Commercial. Any premise in which caring, breeding, housekeeping, and keeping of dogs, cats, or other domestic animals is done for monetary purposes.

Landowner. (GS 160A-385.1) Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed specific development plan or a phased development plan or rezoning application under this section.

Landscaped open space. Landscaped open space consists of lawns shrubs, trees and other vegetation and permanent ground cover capable of absorbing runoff water.

Landscaping. Any combination of living plants and natural material purposely maintained for functional and/or aesthetic reasons, landscaping includes trees, shrubs, vines, ground cover, flowers and grass; natural features, such as rock, stone, bark chips/shavings and pine straw; and man made features, including but not limited to fountains, reflecting pools, outdoor art work and benches.

Lot. A parcel of land whose boundaries have been established by some legal instrument such as a deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public road crosses a parcel of land otherwise characterized as a lot by this definition, the land on each side of the public road shall constitute a separate lot.

Lot area. The computed area contained within the lot lines, said area to be exclusive of street rights-of-way, but including portions held in fee title in the same ownership which may have easements for such purposes as utilities or flood control channels.

Lot corner. A lot abutting two (2) or more streets at their intersection, or upon two (2) parts of the same street, such parts of the same street forming an interior angle of less than one hundred thirty five (135) degrees within the lot lines.

Lot Depth. The mean horizontal distance between front and rear lot lines.

Lot Coverage. That percentage of the total lot area covered by structures as herein defined.

Lot, Flag. A Flag Lot is defined as a parcel of land which primary land area meets or exceeds the shape and size required within the Zoning Regulations.

However the parcel of land does not front or abut a public street, road, or right-of-way for a minimum width as specified in the district. The lot is required to access the main body by a narrow strip of land. The lot resembles a flag, which is its main body and a flag pole constituting the access to a public street.

Lot, Parent. As applies to a Flag Lot is the conforming lot(s) that remains and fronts or abuts a public street, road, or right-of-way after a parcel of land has been divided to form the Flag Lot.

Lot of Record. A lot which is a part of a subdivision or plat, which has been recorded in the office of the Register of Deeds of Carteret County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Width. The lineal distance between side lot lines measured at the front building setback line.

Maintenance. Structural, plumbing, electrical , or mechanical work that might require a building permit but does not constitute a modification to a wind turbine or wireless telecommunications facility.

Manufactured Building. Any building which is of "closed construction" and which is made or assembled in manufacturing facilities, on or off the building site, for installation or assembly, on the building site. "Manufactured Building" also means any building of open construction for which certification under the NC State Building Code is sought by the manufacturer and which is made or assembled in manufacturing facilities away from the building site for installation, or assembly and installation, on the building site. "Manufactured building" does not mean "mobile home".

Manufactured Home. (Mobile Home.) Refer to The State of North Carolina Regulations for Manufactured Homes, latest edition.

NOTE: This definition is not intended to include

modular rooms, modular homes which meet applicable North Carolina Building Code Volume I, or North Carolina Uniform Residential Building Code requirements, or camping type or travel trailers which may equal or exceed the body length, width or area specified herein.

Meteorological Measuring Device. An instrument, such as an anemometer, that measures wind speed and might transmit that wind speed data to a controller.

Modification or modify. A modification shall not include the replacement of any components of a wireless or wind turbine facility where the replacement is similar to, and no bigger than, the component being replaced or for any matters that involve the normal repair and maintenance of a facility.

A modification shall include any addition or modification that may alter the structural integrity or increase wind load such as antennas, cabling, equipment shelters, fencing etc.

Adding a new wireless carrier or service provider to a telecommunications tower or site where additional electrical service is provided is a modification.

Nursing, convalescent or rest home. A dwelling place for more than six (6) aged, infirm or incapacitated persons where nursing care and minor medical services only are available to residents thereof as distinguished from a hospital or attended care facility devoted to the diagnosis, treatment or care of the sick or injured.

New Manufactured Home Park. Any place or tract of land maintained, offered, or used for the parking of two (2) or more mobile homes used or intended to be used for living or sleeping purposes.

Manufactured Home Lot. A prepared plot of land within a mobile home park used or designed to be occupied by one and only one mobile home and its accessory structures.

Module Home. A single family residential house that is premanufactured and meets or exceeds the North Carolina Residential Building Code and all other applicable building codes that pertain to a single family residence and is so labeled. This definition shall not include Manufactured Homes (Mobile Homes) as defined herein.

Motel, Including Motor Hotel. A building or group of buildings comprised of individual sleeping or living units for the accommodation of transient guests for compensation, and includes definition for hotel and provides at least one (1) off-street parking space for every unit.

New Construction. Structures for which the start of construction commenced on or after the effective date of this Ordinance and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this Ordinance.

Night club. A restaurant, dining room, bar, or similar establishment where a dance floor of 150 square feet or larger is provided for guests.

Nonconforming Situation. A nonconforming situation occurs when, on the effective date of this Ordinance or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations

applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the Ordinance, or because land or buildings are used for purposes not permitted by the Ordinance.

Nonconforming Use. A nonconforming situation that occurs when a structure or land lawfully occupied by an existing use which does not conform with the permitted uses for the zoning districts in which it is located, (For example, a commercial office building in a residential district may be a nonconforming use) either at the effective date of this Ordinance, or as a result of subsequent amendments to this Ordinance. The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residential zoned area is a nonconforming use.)

Nonconforming Project. Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance which would be inconsistent with the regulation applicable to the district in which it is located if completed as proposed or planned.

Dimensional nonconformity A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Official Map or Plans. Any map or plans officially adopted by the Planning Board and Town Council as a guide for development of Newport and its

surrounding area, consisting of maps, charts and texts.

Open Green Area. Total lot area minus that area covered by buildings, driveways, off-street parking and refuse facilities.

Owner: See definition for Applicant. See common dictionary definition of owner and/or ownership.

Park Model Recreation Vehicles. Same as that in State of North Carolina Regulations for Manufactured Homes.

Parking Area, Public. An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for patrons, clients or customers.

Parking space. A permanently marked area excluding area necessary for access, for the parking of a motor vehicle.

Paving. The terms paving, paved or pavement in this Ordinance are areas that are prepared for and finished with asphalt or concrete, including a compacted sub grade and granular base material.

Phased Development Plan. (GS 160A-385.1) A plan which has been submitted to the Town by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Town to be a site specific development plan.

Physical fitness center. A facility for individual or group exercises including aerobics or martial arts and may include uses of passive or active mechanical equipment.

Pool Room. A commercial establishment that provides a place for playing pool, billiards, etc. For

this part, one or more pool tables in an establishment is considered a pool room.

Planned Unit Development. (PUD). A land area containing interrelated buildings and open spaces, designed and organized to function as an integrated unit pursuant to a general development plan and approved by the Town Council.

Plat. Includes the terms map, plan, plat, or re plot: A map or plan of a tract or parcel of land which is to be, or which has been, subdivided.

Plat, Preliminary. A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Plat, Final. A map of a land subdivision prepared in a form suitable for filing on record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas and other dimensions of land.

Principal Building or Use. The principal purpose for which a lot or the main structure thereon is designed, arranged or intended, and for which it is or may be used, occupied, or maintained.

Property. (GS 160A-385.1) All property subject to zoning regulations and restrictions and zoning boundaries by the Town.

Public utilities. The utilities and/or services offered and operated by the Town of Newport or by others authorized by the Town of Newport.

Recreational Trailer Park. An area or tract of land where one or more lots are rented or leased or held out to rent or lease to owners or users of recreational vehicles or tents and occupied for temporary purposes.

Recreational Vehicle or Camper 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 towed;
- d. Designed primarily for use not as a permanent dwelling but as temporary living quarters or recreational, camping, travel, or seasonal use.

Residence Inn. A hotel or motel that, in addition, has at least fifty percent of the available dwelling rental rooms equipped with cooking facilities.

Restaurant. Any building, structure or establishment used for the preparation, serving and/or consumption of food (but not including establishments serving single specialty items such as ice cream), wherein a customer orders and picks up the food at a counter and takes the food to a table or counter, or where food is brought to a customer at table or counter located within or immediately outside the establishment for consumption. This definition shall not be construed to include establishments where food is prepared and sold but not consumed on the premises, (but shall include the counter service portion of establishments providing both counter and table service.) Beer, wine or other fortified beverages may be served with meals. Restaurant may have separate rooms or places on the premises for the primary consumption of beer, wine or other fortified beverage where such use is otherwise permitted as a bar, lounge, night club or the like in the zoning district there may be regulated by other provisions of the zoning ordinance.

Restaurant, Takeout. Any building, structure or establishment used for the preparation of food and may provide tables or counter on premises for the consumption of food; thereby permitting a customer who purchases food to take food off premises for consumption.

Residential Care Facilities. see day care facilities.

Roadside Stand. A temporary structure designed or used for the display or sale of consumer goods.

Rental Mini-Storage Building. Building for the purpose of non-industrial, general public rental with cubicles not to exceed 300 square feet in size.

Rooming House. See Boarding House.

Servants quarters. Dwelling or lodging units for domestic servants employed on the premises.

Setback Line. The line on the front, rear, and sides of a lot, set according to the zoning district regulations, which delineates the area upon which a structure may be built and maintained.

SFF. See Solar Farm Facility.

Shadow Flicker. The visual effect when the blades of an operating wind energy facility pass between the sun and an observer, causing a readily observable, moving shadow on a person or property and the immediate vicinity.

Shelter, Fallout. A structure or portion of a structure intended to provide protection for human life during periods of danger to human life from nuclear fallout, air raids, storms, or other emergencies.

Shopping Center. A building or buildings in which are situated no less than five (5) separate tenants or occupants, where the Zoning Administrator determines that such tenants or occupants are engaged in compatible uses, and which uses are located on the same lot or located on separate but abutting lots tied together by binding legal agreements providing rights of reciprocal vehicular parking and vehicular access.

Site Specific Plan. (160A-385.1) Any subdivision plan, a preliminary or general development plan,

planned unit development plan, precise plan, special use permit or conditional use permit, a conditional use or special use district zoning plan, or any other land-use designation as may be utilized by the Town. Unless otherwise expressly provided by the Town, such a plan shall include the boundaries of the site; signification topographical and other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. A variance shall not constitute a site specific development plan, and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

Sign. Any device, card, cloth, glass, metal, painted, paper, plastic, wooden, or other configuration of any character placed in or on the ground or any tree, wall, bush, rock, fence, pavement, building, banner, flag, structure, or other thing, for the purpose of advertising, announcing, declaring, demonstrating or displaying information about a specific business, product, commodity, occupant use, activity, or building, including but not limited to clocks, barber poles and similar devices. This shall exclude official notices issued by a court or public officer.

Sign Area. The entire face of a sign and all wall work including illuminating tubing incidental to its decoration shall be included for measurement of sign areas excluding architectural trim and structural embellishments. In the case of an open sign made up of individual letters, figures or designs, the spaces between such letters, figures or designs shall be included as part of the sign area. In computing sign area, only one side of a double face sign structure shall be considered.

(a) Building-mounted. The area of a regular

geometric form including the area between signs, unless multiple signs are permitted, and all sign faces.

(b) Free standing. The aggregate surface area of the sign panels (excluding the sign support itself, unless it is designed to attract attention or advertise).

(c) Window. The aggregate area of no more than two (2) regular geometric forms of not more than six (6) sides each required to enclose all the sign messages, including background and decorative details.

Sign, Direction. Any sign the sole purpose of which is to regulate the flow of pedestrians or vehicles on private property.

Sign, Free-Standing. Any sign not entirely supported by a building.

Sign, Principal Use. A sign which directs attention to a business, product, commodity, service, entertainment, or other activity, conducted, sold, or offered exclusively on the premises upon which said sign is located.

Sign, Outdoor Advertising. Any sign, including a standard poster panel, either free standing or attached to a structure, which directs attention to a business, commodity, service, entertainment, or other commercial activity, conducted, sold, or offered elsewhere than on the premises on which said sign is located.

Sign, Real Estate. Any sign the purpose of which is to declare the appurtenant real property for rent, lease, or sale.

Sign, Window. Any sign, displayed in, attached to, or painted on a window which is visible from any public street and is intended to attract the attention of persons outside the building, excluding

merchandise displays and incidental informational signs (e.g.; credit cards accepted, hours, non appurtenant community service announcements, etc.).

Solar collector. Means a device, structure or a part of a device or structure for which the primary purpose is to transform solar energy into thermal, mechanical, chemical, or electrical energy.

Solar Farm Facility. For the purpose of this ordinance, the term "Solar Farm Facility" includes a use of land where a series of one or more solar collectors are placed on a parcel of land for the purpose of generating photovoltaic power and collectively has a nameplate generating capacity of more than 15 kilowatts (kW) direct current (DC) when operating at maximum efficiency. Solar farm is also referred to as solar power plant or solar photovoltaic farm.

Solid waste facility. A facility for the operation of a solid waste transportation and disposal business to include the cleaning and refurbishment of refuse collection vehicles and related recycling efforts, not to include landfills, or incinerators.

Sound Barrier. A sound barrier consists of a wall not less than eight feet high, made of brick, concrete, concrete block, glass, full louvered or solid wooden fencing manufactured of suitable pressure-treated lumber and located no more than ten feet from a building where outside noises occur (such as made by animals, humans, machinery, engines under operation or testing, etc.) The sound barrier shall encircle the noise area on all sides with a combination of building, wall, or fence, which meet the eight foot height requirement.

Special Use. A special use is one that would not be appropriate throughout a zoning district as a right without restriction, but, if controlled as to number, area, location, or relation to the neighborhood would promote public health, safety, general welfare,

morals, order, comfort, convenience, appearance, or prosperity. Such a use could be permitted in a zoning district as a special use if specific provision were made for it in this Ordinance and if such use were approved by the Board of Adjustment in accordance with the requirements and procedures set forth by the Board of Adjustment for special uses in this Ordinance.

Start of construction. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the phase of excavation (or the placement of a manufactured home on a foundation). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

State. The State of North Carolina.

Street. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties, and may be a:

1. Major street is a street or highway which is used for moving heavy traffic volumes or high speed traffic, or both, or which has been designed as a major thoroughfare on the thoroughfare plan.

2. Minor street is a street whose primary purpose is to provide access to adjacent properties and is designed in a manner that will discourage use by through traffic.

3. Collector street is a street which collects traffic from another street (minor) and serves as the most direct route to a major street or a community facility.

4. Cul-de-sac is a minor street having one end open to vehicular traffic and having one end permanently terminated by a vehicular turn-around.

Structure. Anything constructed or erected with a fixed location on or in the ground; or attached to something having more or less a fixed location on or in the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, and swimming pools. "Structure" for floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

Subdivider. Any person, who or firm, corporation, LLC or other legal entity which subdivides or develops any land deemed to be a subdivision as herein defined.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of market value of the structure before the damage occurred. The market value is considered to include only the value of the physical structure and not any income that may be derived from the use of the structure. See definition of "substantial improvement".

Substantial Improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds (50%) fifty percent of the market value of the structure before the "start of construction" of the improvement. The market value is considered to include only the value of the physical structure and not any income that may be derived from the use of the structure. This term includes structures which

have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which is the minimum necessary to assure safe living conditions or;
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

Substantially improved existing manufactured home park. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equal or exceeds 50 percent of the value of streets, utilities and pads before the repair, reconstruction, or improvement commenced.

Super graphics. Painted or otherwise colored, specific symbols, shapes or devices on the walls of a building wherein the primary intent is decoration and architectural enhancement of a building.

Tall Structure. Any structure that is taller than seventy (70) feet and is not otherwise exempt from these regulations

Thoroughfare. A main road or public highway. As applies to this Ordinance would be Hwy 70, Chatham St, East Chatham St., Howard Blvd and Orange St (Mill Creek Rd).

Tourist Home. A dwelling other than a hotel or motel in which sleeping accommodations and/or meals are provided or offered for compensation for three or more persons.

Tower: Any ground-mounted, pole, spire, structure or combination thereof, including supporting lines,

cables, wire, braces and masts, to which a telecommunications antenna is attached or affixed.

Tower, Lattice: Three-or four-legged steel girder structures typically supporting multiple communications users and services.

Tower, Monopole: A tower of single pole design with a wide base and narrowing at the top.

Townhouse. One of a series of single family-dwelling units attached at the roofline or foundation, structurally independent, separated by a 2-hour fire rated wall and property lines separating such units. Each unit capable of fee simple ownership of the unit, the front and rear yard and, where an end unit, the ownership of the side yard adjacent to the end unit.

Trailer, House. See Manufactured home

Trailer Park. See Manufactured Home Park.

Utility Pole. Pole used to support essential services such as power, telephone, or cable TV lines or used to support street or pedestrian way lighting.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance. A variance may be made where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. Variances are granted by the Board of Adjustment as provided for in the Zoning Ordinance, and may be granted subject to certain rules and regulations as set forth in this Ordinance.

Vehicle Use Area. Any area used for circulation, parking, and/or display of any and all types of vehicles, whether self propelled or not, whether moving or at rest, including but not limited to parking lots, loading and unloading areas, mobile home parks, and sales service areas. Driveways are

considered to be vehicular use areas wherever they are adjacent to public streets or other vehicle use elements described previously in this paragraph (intervening curbs, sidewalks, yards, landscape, strips, etc., do not eliminate adjacency). Not including in this definition are driveways and parking spaces serving detached one and two-family residential dwellings.

Vested right. (GS 160A-385.1) The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phase development plan.

Veterinary Clinics and Animal Hospitals. Any premises to which animals are brought, or where they are temporarily kept, solely for purposes of diagnosis or treatment of any illness or injury.

Warehouse. A building or part of a building that is constructed or adapted for the storage of goods or merchandise, as distinguished from rental mini-storage building.

WEF. See Wind Energy Facility

Wind Energy Facility. In addition to the definitions in Article 21C., G.S. 143-215.115. (2) Definitions, of the North Carolina General Statutes and includes additional requirements such as:

a WEF whose primary purpose is to generate electricity to the Utility Electrical Power Grid and consists of one or more wind energy turbines each of which having a rated capacity more than twenty five thousand watts (25 KW).

Wind Energy Facility Expansion. In addition to the definitions in Article 21C., G.S. 143-215.115. Definitions, of the North Carolina General Statutes (3), that may include additional requirements in this Ordinance.

Wind Energy Facility Accessory Use . A wind

energy facility that has a rated capacity of not more than 25 kW. Such a facility is used primarily for on-site consumption, as an accessory use in Article VIII of this Ordinance.

Wind Farm. See Wind Energy Facility Wind Energy Facility.

Windmill. A wind energy conversion system that uses rotating blades to convert the energy of the wind into mechanical energy to do physical work, such as crushing grain or pumping water.

Wind Power. Electricity that is generated by converting the rotation of turbine blades into electrical current by means of an electrical generator.

Wind Pump. A type of windmill used for pumping water from a well or for draining land.

Wind Turbine. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. Such a system might include a nacelle, rotor, tower, pad transformer, and other appurtenant structures and/or facilities.

Wireless Telecommunication Services (WTS). Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the Amateur Radio Service, Public Safety Radio Service, or telecommunications service rendered under licenses assigned to non-profit organizations, such as, the Red Cross, Civil Air Patrol, Military Affiliated Radio Service (MARS) licensed by the Federal Communications Commission.

Yard. A required open space unoccupied and

unobstructed by any principal building or accessory building, extending from ground to sky, except as provided herein.

Yard, Front. A yard extending across the front of a lot measured from side lot line to side lot line and lying between the abutting street right-of-way and the front setback line.

Yard, Rear. A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear setback line.

Yard, Side. A yard extending along either side of a lot measured from front setback line to the rear setback line and lying between the side lot line and the side setback line.

Zoning Administrator. See Administrator, Zoning.

ARTICLE III

GENERAL PROVISIONS

3-1 Interpretation and Application

a. In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations. Except as hereinafter provided, these regulations shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenants, deed restrictions, or other agreements between parties. Wherever the provisions of these regulations impose greater restrictions upon the use of land or buildings or require a larger percentage of lot to be left unoccupied than the provisions of other ordinances, rules, regulations, permits, or any easements, covenants, deed restrictions, or other agreements between parties, the provisions of these regulations shall govern.

b. All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings by the State of North Carolina and its political subdivisions. (G.S. 160A-392)

3-2 Zoning Affects All Land and Buildings.

No land, building or structure shall be used, no structure shall be erected, and no existing structure shall be moved, added to, enlarged, or altered, except in conformity with these regulations.

3-3 Only One Principal Use Upon Any Lot.

There shall be no more than one principal use upon any lot in a residential zone.

3-4 Reduction or Change in Lot Size.

No lot shall be reduced or changed in size so that

the total area, minimum frontage, front, side, or rear setbacks, lot area per dwelling unit, or other dimensions, areas, or open spaces required by these regulations are not maintained. No lot shall be reduced in size so as to produce an additional lot, reduce a remaining lot which is not in conformity with these regulations, unless said lots are combined with other land to produce a conforming lot or unless the nonconforming lot is needed and accepted for public use.

3-4.1 Townhouse.

a. Notwithstanding any other provision of this Ordinance the individual dwelling units of attached single-family dwellings which are, or have been, constructed in compliance with the terms of this Ordinance, which qualify as townhouse as defined by the NC Building Code, may be conveyed as separate units so that each may be individually owned. Each such conveyance shall consist of the unit, including the portion of the lot on which it is constructed, a portion of the lot which lies between the unit and the public street on which it fronts, and a portion of the lot which lies between the unit and the back line of the lot on which the townhouse is constructed. In the case of end units, the conveyance shall include the remainder of said lot to the side lot line. This provision is commonly called, "zero lot line".

b. The dimensional requirements, if any, including area, front, side, and rear yard, shall be determined by the zoning classification applicable to the particular site. Said dimensional requirements shall be applied to the overall structure, as opposed to the individual townhouse units, as if the individual units were going to be owner occupied or rented, as opposed to being sold as separate townhouse units.

c. Prior to issuing any building permits under this part, the Town Council shall approve the declaration of covenants, conditions and restrictions for the dwellings.

3-5 Maintenance of Open Spaces, Projections Into Required Yards

a. No yard shall be encroached upon or reduced in any manner except in conformity with these regulations. No yard for one (1) principal building shall be considered as a yard for any other principal building. Shrubbery, driveways, walks, parking lots, retaining walls, fences, trellis, curbs, ornamental objects, and planted buffer strips shall not be construed to be encroachments on yards.

b. Certain architectural features may project into required yards or courts as follows: cornices, canopies, fuel islands, awnings and fire escapes. Outside stairways may project no more than three (3) feet into the side or rear yard setback. Eaves shall be allowed to project into a minimum required yard no more than twenty-four (24) inches.

c. Within commercial, industrial or public use zones, accessory items such as listed below are permitted where the following conditions are adhered to:

1. The use is not located within the normal vehicle travel lane, if it will impede normal traffic flow or reduce the minimum required parking spaces;
2. The use does not adversely impair visibility either on premise, travel way or other property. Accessory dispensing machines or uses may be located at the curb accessible from the business side of the curb which will not require pedestrian or vehicle traffic to encroach on or occupy any part of a street right of way to use the machine;
3. Typical permitted machines are vehicle air dispensing or vacuum cleaners, newspaper, soft drink vending machines, bank teller and ice vending.



Example of accessory permitted use. Vehicle air pump is in setback.



Example of permitted use. Fuel island and canopy in setback.



Example of large vending machine in setback.

3-6 Street Access

No building shall be erected on a lot which does not abut at least 35 feet on an open street which is either a public street, a dedicated right-of-way, or an alley unless such lot was a lot of record prior to the adoption of this Ordinance.

3-7 Lots with Multiple Frontages

In the case of a corner lot having frontage on two (2) or more streets, all buildings shall be setback from each such street a distance equal to the minimum front yard requirement for the district. In a commercial or industrial zone, if a building is constructed on a lot having frontage on two (2) streets but not at an intersection, a setback from the secondary street may be reduced to one-half (1/2) of the front yard requirement for the district in which the lot is located but not in conflict with the Fire lane requirements of the Building Code.

3-8 Uses Prohibited

If either a use or class of uses is not specifically indicated as being permitted in a district, either as a matter of right or as a special or conditional use, then such use or class of uses shall be prohibited in such district.

ARTICLE IV

ESTABLISHMENT OF DISTRICTS AND ZONING MAP

4-1 Establishment and Designation of Zoning Districts.

The various districts hereby established and into which the Town of Newport and the Extraterritorial Jurisdiction are divided are designated as follows:

- R8 Residential single family district
- R10 Residential single and multi-family district
- R15 Residential single family district
- R15D Residential single family town house district
- R20 Agricultural, Residential district
- R20A Residential single family district
- R20MH Residential manufactured home district
- RO Residential office district
- NB-1 Neighborhood business district
- CD Commercial downtown district
- CH Limited access commercial highway
- LI Light Industrial
- IW Industrial warehousing
- U Interim District

4-2 Official Zoning Map

a. The designations, locations and boundaries of the aforesaid districts including the Extraterritorial Jurisdiction boundary line, are set forth and shown on that certain map entitled "The Official Zoning Map for the Town of Newport." This map is computer created and printed with a Geographical Information System (GIS). Said map or maps with all explanatory matter thereon shall be deemed to be and are hereby adopted and made a part of this chapter.

b. The Map shall be identified by the signature of the Mayor, attested by the Town Clerk, and bearing the Official Seal of the Town of Newport under the following words: "This is to certify that this is the Official Zoning Map referred to in Article IV of the Zoning Ordinance for the Town of Newport, North Carolina." The date of adoption shall also be shown. Said map shall remain on file in the office of the Town Clerk, a certified true copy in the Carteret County Clerk of Court office and an additional copy in the office of the Zoning Administrator of the Town of Newport.

4-3 Zoning Map Changes

When amendments, changes to, or the map needs to be replaced, it is done by the GIS system. Any and all amendments will require editing and printing a new original map that will supersede the previous original and will be annotated on the replacement map along with the authentication required by Section 4-2b.

4-4 Maintenance of the Official Zoning Map

The Zoning Administrator shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Council that a zoning change has been made, the Zoning Administrator shall cause the amended Zoning Map to be GIS created and authenticated as required by Section 4-2b.

4-5 Interpretations of District Boundaries.

Where uncertainty exists as to the boundaries of any of the aforesaid districts as shown on said zoning map, the Zoning Administrator upon written application or upon his own initiative, shall determine the location of such boundaries by reference to the scale shown thereon. In making such determination the following rules shall apply:

1. Where boundaries approximately follow streets, alleys or highways: Where district boundaries are indicated as approximately following the center line or street line of streets, the center line or alley line of alleys, or the center line or right-of-way line of highways, railroads or the centerline of a river bed or creeks, then such lines shall be construed to be such district boundaries.

2. Where boundaries approximately follow lot lines: Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.

3. Where boundaries approximately follow the corporate limits: Where boundaries indicated as approximately following the corporate limits shall be construed as following the corporate limits.

4. Where boundaries divide a lot: If a district boundary divides a lot, the requirements for the district in which the greater portion of the lot lines shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than fifty (50) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.

5. Vacation of public ways: Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoning district adjoining each side of the street, alley, or public way shall automatically extend to the center of such vacation

and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

6. Where further interpretation is needed: In case of further uncertainty, the Board of Adjustment shall interpret the intent of the map as to the location of such boundaries.

7. All territory hereafter annexed beyond the zoning jurisdiction of the Town or the Extraterritorial Jurisdiction extended to the Town of Newport shall be zoned to an Interim Zone (U). If the territory was zoned prior to the extension or annexation by the Town, then the same zoning classification permitted and/or special uses will be permitted as was permitted under the previous jurisdiction during the interim period. Following said annexation, said territory shall be studied by the Newport Planning Board for the purpose of making a recommendation to the Town Council of the appropriate permanent zone of said territory.

ARTICLE V

NONCONFORMING LOTS, STRUCTURES, AND USES

5-1 Intent

Within the districts established by this Ordinance there may exist structures and uses of land, which were lawful before this Ordinance was passed but will be prohibited under the terms of this Ordinance. It is the intent of this Ordinance to provide for their gradual elimination or improvement in order to further the general plan and overall goals of the Town for orderly community development.

5-2 Repairs and Maintenance

On any building or structure devoted in whole or in part to any nonconforming use, work may be done on ordinary fixtures, wiring, or plumbing, providing that the cubic content of the building shall not be increased. Repairs may be made as required to keep the building or structure in a safe condition provided that no structural alteration or replacement shall be made.

5-3 Nonconforming Structures

a. Where a lawful structure exists at the date of adoption of this Ordinance that could not be built under the terms of this Ordinance by reason of some characteristic of the structure or its placement on the lot, such structure may be continued as long as it remains otherwise lawful.

b. No such structure may be enlarged or altered in a way which increases its nonconformity.

c. Where a structure or building containing a nonconforming use is damaged or destroyed by any natural disaster, fire, or accident and repair or replacement exceeds fifty (50%) percent of the cost of construction of a comparable new building or

structure, as determined by the Building Inspector, it shall not be reconstructed or enlarged to accommodate a nonconforming use. It may only be restored and used in conformity within the provisions of the district.

5-4 Continuance and Change of Nonconforming Use

a. Nothing in this Ordinance shall allow a change from one nonconforming use to another.

b. Any legal nonconforming use of a building, structure, mobile home, or premises may be continued, provided however, that if the use is discontinued for a period of one hundred eighty (180) calendar days, said use shall be considered abandoned and said building, structure, or premise shall thereafter be used only for uses permitted within the district in which the use is located. A mobile home shall be removed from the district within 90 days after its abandonment. One-hundred eighty (180) days shall be allowed to remove from the premise all debris, equipment, etc., that was associated with the non-conforming use. Three years (3) shall be given for the removal or conversion of structures and buildings.

5-5 Nonconforming Signs.

Nonconforming signs, in addition to this section, shall be regulated by the provisions of Article XIV of this Ordinance.

5-6 INTENTIONALLY LEFT BLANK FOR FUTURE CODIFICATION

5-7 Nonconforming Lots.

a. When a nonconforming lot can be used in conformity with all of the regulations (other than area, depth or width requirements) applicable to the district in which the lot is located, such use may be

made as of right. Otherwise, the nonconforming lot may be used only in accordance with a special-use-permit issued by the Board of adjustment. The Board of Adjustment shall issue such permit if it finds that (i) the proposed use is one permitted by the regulations applicable to the district in which the property is located, and (ii) the property can be developed as proposed without any significant negative impact on the surrounding property or public health, safety, or welfare. In issuing the permit authorized by this paragraph, the Board may allow deviations from applicable dimensional requirements (such as set-back lines and yard minimums) if it finds that no reasonable use of the property can be made without such deviations.

b. Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successors in interest, may not take advantage of the provisions of paragraph a. of this section.

5-8 Extension or Enlargement of Nonconforming Situations

a. Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

b. Subject to paragraph d. of this subsection, a nonconforming use may not be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to subsection 5-9 of this section (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside

the original building.

c. Subject to subsection 5-9 of this section (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land that was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if 10 per cent or more of the earth products had already been removed at the effective date of this Ordinance.

d. The volume, intensity, or frequency of use of property where a nonconforming situation exists and may be increased and equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this subsection occur.

e. Physical alteration of structures or the placement of new structures on open land is unlawful if it results in:

1. An increase in the total amount of space devoted to a nonconforming use; or

2. Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or

3. The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least 75 per cent of the perimeter of the area is marked by a permanently constructed wall or fence.

f. For the purpose of determining whether a right to continue a nonconforming situation is lost pursuant

to this subsection, all of the buildings, activities, and operations maintained on a lot are generally considered as a whole. For example, failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming mobile home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a mobile home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of the mobile home for 180 days terminates the right to replace it.

5-9 Completion of Nonconforming Projects.

a. All work on any nonconforming project shall cease on the effective date of this Ordinance, and all permits previously issued for work on nonconforming projects shall be revoked as of that date. Thereafter, work on nonconforming projects may begin, or may be continued, only pursuant to a special use permit issued by the Board of Adjustment (except as provided in paragraph b. of this section). the Board shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in such substantial way in reasonable reliance on the land-use law as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Board shall be guided by the following:

1. All expenditures made pursuant to a validly issued and unrevoked building or zoning permit shall be considered as evidence of reasonable reliance on the land-use law that existed before this Ordinance became effective.

2. Except as provided in subparagraph 1. of this paragraph, no expenditures made between 180 days and the effective date of this Ordinance shall be considered as evidence of reasonable reliance on the land-use law that existed before this Ordinance became effective. An expenditure is made at the time a party incurs a binding obligation to make that expenditure.

3. To the extent that expenditures are reasonable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made expenditure to acquire a potential development site if the property obtained is just as valuable under the new classification as it was under the old, for the expenditure can be recovered by resale of the property.

4. An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (i) the total estimate cost of the proposed project, and (ii) the ordinary business practices of the developer.

5. A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land-use law affecting the proposed development site could not be attributed to him.

6. Even though a person had actual knowledge of a proposed change in the land-use law affecting a development site, the Board may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. the Board may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (i) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and (ii) the developer had legitimate business reasons for making

expenditures.

7. Nothing in this section shall interfere with the provisions in Section 1-11 (Vested Right) of this Ordinance. The requirements of paragraph a. of this section shall not apply to a nonconforming project if the Zoning Administrator certifies that actual construction of the project began at least 180 days before the effective date of this Ordinance and that the work is at least 75 per cent complete at the effective date of this Ordinance. Notwithstanding the two year Vested Rights, Section 1-11, of this ordinance.

b. the Board of Adjustment shall not consider any application for the special-use permit authorized by paragraph a. of this section that is submitted more than 60 days after the effective date of this Ordinance, unless it waives this requirement for good cause shown.

c. If the Board of Adjustment issues a special-use permit pursuant to paragraph a. of this subsection, it may attach such reasonable conditions to the permit as it finds necessary to reduce the extent to which the nonconforming project is incompatible with the surrounding neighborhood. In particular, the Board may require that work on the nonconforming project be continuously maintained, if possible, and that the project be completed as expeditiously as possible.

d. the Zoning Administrator shall send copies of this subsection to owners (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be under construction. This notice shall be personally delivered or sent by registered or certified mail not less than fifteen days before the effective date of this Ordinance.

e. the Board of Adjustment shall establish expedited procedures for hearing applications for special-use permits under this subsection. These applications

shall be heard, whenever possible, before the effective date of this Ordinance, so that construction work is not needlessly interrupted.

f. When it appears from the developer's plans, or otherwise, that the nonconforming project was intended to be or reasonably could be completed in phases, segments, or other discrete units, the Board of Adjustment shall determine and not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.

ARTICLE VI

(d) From time to time it will be amended under the same procedure as the Zoning Ordinance.

OVERLAY DISTRICTS**6 Wellhead Protection District**

6-1 **Purpose.** The purpose of the Wellhead Protection District is to:

(a) Promote the health, safety and general welfare of the community by ensuring an adequate quality and quantity of drinking water for residents, institutions and businesses of the Town;

(b) Preserve and protect the public, municipal water supply for the Town;

(c) Preserve the natural resources of the Town;

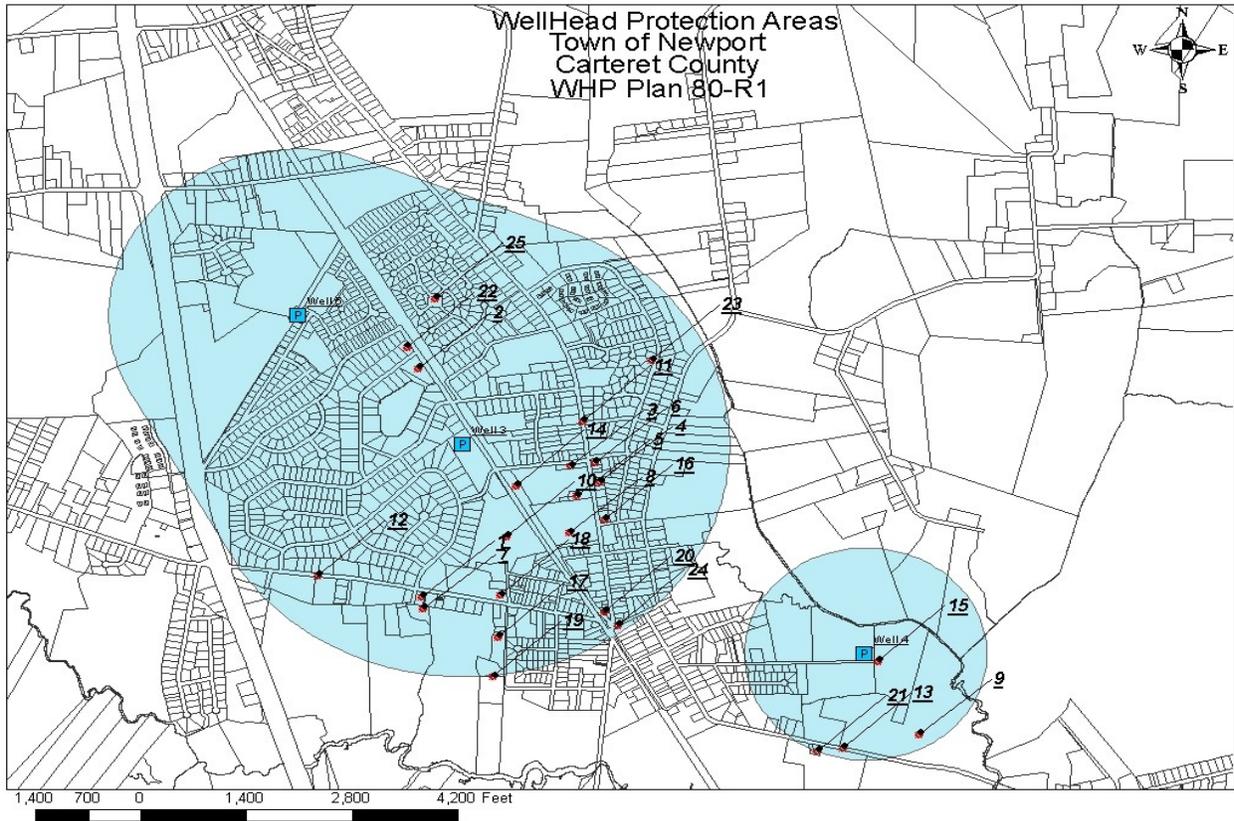
(d) Prevent temporary and permanent contamination of the environment.

6-2 Scope

(a) The Wellhead Protection District is an overlay district superimposed on the zoning districts. The requirements, restrictions and provisions of the district shall apply to all new construction, reconstruction or expansion of building and new or expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts, which fall within the Wellhead Protection District, must additionally comply with the requirements restrictions and provisions of this district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Wellhead District.

(b) Overlay Map. The Wellhead Protection Districts Map is attached.

(c) The main body of the Newport Wellhead Protection plan, Appendix A2, is attached and is a part of this Ordinance.



ARTICLE VII**7-0 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DISTRICTS.**

Refer to Article III, Section 3-8 for Uses Prohibited.

the Town desires to limit and control the access to properties onto HWY 70 in order to discourage the proliferation of traffic signals along the thoroughfare and maintain unimpeded flow of vehicular traffic along the highway. In doing so, a planned access will be awarded only by a Special Use permit.

the Town is hereby divided into the following zoning districts:

<u>SECTION</u>	<u>DISTRICT</u>
7-0	RESIDENTIAL DISTRICTS
7-1a	R-20 Residential Agricultural Low Density
7-1b	R-20A Residential Low Density Single Family
7-1c	R-20MH Residential for the exclusive use of Manufactured (Mobile) Homes
7-2	R-15 Residential Medium Density Single Family
7-3	R-8 and R-10 High Density Residential
7-4	R-15D Residential, Town House
7-5	Reserved for Future Codification
7-6	Reserved for Future Codification
7-7	COMMERCIAL AND INDUSTRIAL DISTRICTS
7-7.1	RO Residential Office
7-7.2	NB-1 Neighborhood Business
7-7.3	CD Commercial Downtown
7-7.4	CH Commercial Highway
7-7.5	LI Light Industrial
7-7.6	IW Industrial Warehouse
7-8	CU CONDITIONAL USE DISTRICTS
7-9	Reserved for Future Codification

7-1a. R-20 Residential Agricultural

(1) Purpose: R-20 Residential Agricultural District is rural, agricultural in nature. The district is primarily farming agricultural uses and permits single family dwellings and manufactured homes (mobile homes). Public water and sewer are normally not available. This district is generally considered not to be within the Town limits; however, it is transitional and may be developed to a higher density residential or other than residential zone when it is determined that the area in question is appropriate and the action is necessary to the Town. It is further intended that when these areas are developed and provided with Town water and sewer, the areas should be annexed into the Town.

(2) Permitted Uses:

- a. Agriculture, horticulture, commercial or non-commercial breeding of barn yard animals, swine, and other farming, not to include commercial processing plants such as abattoir and the like.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Companion unit attached or detached guest house.
- d. Dwelling, single family, duplex apartment, module home (NC Residential Building Code labeled), licensed family care home (5) or less unrelated persons, manufactured home (mobile home).
- e. Manufactured homes shall be HUD approved and certified to meet or exceed North Carolina wind code requirements for wind zone III.
- f. Home occupation subject to the provisions of Article VIII.
- g. Public utility use. Utility substations and the like shall be screened and or landscaped as provided in this Ordinance. Refer to Special Use Permit Section (3) for office, storage, maintenance facilities and WTF
- h. Municipal park, and/or recreational areas.

(3) Special Use Permits Required: Considered by the Board of Adjustment.

- a. Wireless Telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Mining and borrow pits.
- c. Cemetery, places of worship, community centers, child day care centers.
- d. Mobile Home Park.

- e. Hunting Lodge, private club or lodge.
- f. Recreational vehicle parks. Refer to Section 9-5 for development standards.
- g. Intentional left blank for future use
- h. Convalescent, rest or nursing homes.
- i. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet the requirements of the members, guests or users of the golf course only.
- j. School.
- k. Public utility facilities with associated office, storage or maintenance facilities.
- l. Wind Energy Facilities (WTF). Must comply with Article IX, Section 9-6.1

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VIII and XIV.
- b. Site development and landscaping in accordance with Article XII.
- c. Off street parking in accordance with Article XIII.
- d. Other sections of the zoning ordinance may apply as appropriate.
- e. Telecommunications facilities shall comply with Article IX development standards (9-7.2)
- f. Wind Energy Facilities shall be developed in accordance with Article IX, Section 9-6.1 as appropriate.

(5) Minimum Setback and Lot Area for the District:

- a. Setback for the district

Front yard	20ft.
Side yard	10ft.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	100ft
Minimum lot area sq ft.	20,000 residential, single or duplex
Maximum lot coverage	40%

Intentionally left blank

7-1b R20A Residential Single Family:

(1) Purpose: R-20A Residential single family district that is rural in nature and is generally not served by a public water or sewer system. It is usually created out of the R-20 district where the developer of a subdivision or homeowners desire the development standards of single family dwellings. Barn yard animals and manufactured (mobile) homes are not permitted.

(2) Permitted Uses:

- a. Single family residential homes that are constructed in accordance with the North Carolina Residential Building Code.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Companion unit attached or detached guest house.
- d. Home occupation subject to the provisions of Article VIII.
- e. Public utility building, use and substations. Utilities substations shall be surrounded by screening and/or landscaping as provided for in this Ordinance. Office, storage, maintenance facilities and WEF are not permitted use.
- f. Municipal park, recreation areas.

(3) Special Use Permits Required: Considered by the Board of Adjustment.

- a. Wireless telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Cemetery, religious establishments, community centers, child day care centers.
- c. Convalescent, rest or nursing homes.
- d. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet the requirements of the members, guests or users of the golf course only.
- e. School.
- f. Public utility facilities with associated office, storage or maintenance facilities. WEF are no permitted.

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VII and XIV.
- b. Site development and landscaping in accordance with Article XII.
- c. Off street parking in accordance with Article XIII.
- d. Other sections of the Zoning Ordinance may apply as appropriate.
- e. Telecommunications facilities shall comply with Article IX development standards (9-7.2)

(5) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	10ft.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	100ft
Minimum lot area sq ft.	20,000
Maximum lot coverage	40%

7-1c. R20MH Residential Single Family, Manufactured Home (Mobile Home) District:

(1) Purpose: R20MH Residential single family district that is rural in nature and may not be served by a public water or sewer system. It is usually created out of the R-20 district where the developer of a subdivision or homeowners desire the development standards of districts where single family manufactured homes (mobile homes) is the only dwelling permitted use.

(2) Permitted Uses:

- a. Single family manufactured homes (mobile homes). Manufactured homes shall be HUD approved and certified to meet or exceed North Carolina wind code requirements for wind zone III.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Home occupation subject to the provisions of Article VIII.
- d. Public utility buildings and substations. Office, storage or maintenance facilities are not permitted use.
- e. Municipal park, recreation areas.

(3) Special Use Permits Required: Considered by the Board of Adjustment.

- a. Wireless Telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Cemetery, religious establishments, community centers, child day care centers.
- c. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet only the requirements of the members, guests or users of the golf course.
- d. School.
- e. Public utility facilities with associated office, storage or maintenance facilities, WEF are not permitted.

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VII and XIV.
- b. Site development and landscaping in accordance with Article XII.

- c. Off street parking in accordance with Article XIII.
- d. Other sections of the zoning ordinance may apply as appropriate.

e. Telecommunications facilities shall comply with Article IX development standards (9-7.2).

(5) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	10ft.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	100ft
Minimum lot area sq ft.	20,000
Maximum lot coverage	40%

7-2 R15 Residential Single Family District:

(1) **Purpose:** The R-15 district is for medium density residential single family development. This district is the preferred development where public water and sewer is provided. The development standards are single family dwellings. It is further intended that when these areas are developed and provided with Town water and sewer, the area shall be annexed into the Town.

(2) Permitted Uses:

- a. Only single family residential homes that are constructed in accordance with the North Carolina Residential Building Code.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Companion unit attached or detached guest house that is constructed in accordance with the North Carolina Building Code for that purpose
- d. Home occupation subject to the provisions of Article VIII.
- e. Public utility building, use and substations. Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. Facilities with associated office, storage and/or maintenance facilities and WEF is not a permitted use.
- f. Municipal park, recreation areas.

(3) Special Use Permits Required: Consideration by the Board of Adjustment.

- a. Wireless Telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Cemetery, religious establishments, community centers, child day care center.
- c. Convalescent, rest or nursing homes.
- d. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet only the requirements of the members, guests or users of the golf course.
- e. School.

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VII and XIV.
- b. Site development and landscaping in accordance with Article XII.

- c. Off street parking in accordance with Article XIII.
- d. Other sections of the zoning ordinance which apply.
- e. Telecommunications facilities shall comply with Article IX development standards (9-7.2)

(5) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	10ft.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	85ft.
Minimum lot area sq ft.	15,000
Maximum lot coverage	40%

7-3 R8 and R10 High Density Residential Districts:

(1) Purpose: The R8 and R10 districts were created in recognition of high density areas within the Town that were developed prior to the existence of the zoning ordinance. It is not the intent to create or expand any future R8 districts. R-10 areas may be created when it is found to be in the best interest of the Town.

(2) Permitted Uses:

- a. Single family, in the R8 district. Single family and multifamily residential homes in the R10 district. Residential homes that are constructed in accordance with the North Carolina Residential Building Code.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Companion unit attached or detached, guest house.
- d. Home occupation subject to the provisions of Article VIII.
- e. Public utility building, use and substations, (WEF is not permitted). Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. Office, storage or maintenance facilities are not permitted uses.
- f. Municipal park, recreation areas.

(3) Special Use Permits Required: Consideration by the Board of Adjustment.

- a. Wireless Telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Cemetery, religious establishments, community centers, child day care center.
- c. Convalescent, rest or nursing homes.
- d. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet only the requirements of the members, guests or users of the golf course.
- e. School.
- f. Public utility facilities with associated office, storage or maintenance facilities (not to include WEF)

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VII and XIV.

- b. Site development and landscaping in accordance with Article XII
- c. Off street parking in accordance with Article XIII.
- d. Other sections of the zoning ordinance may apply as appropriate.
- e. Telecommunications facilities shall comply with Article IX development standards (9-7.2)

(6) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	8ft.
Rear yard	10ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	75ft.
Minimum lot area sq. ft. for R-8 District	8,000
Minimum lot area sq. ft. for R10 District.	10,000 single family and 5, 000 additional for each multifamily unit.
Maximum lot coverage	40%

7-4 R15D Residential Town House District:

(1) Purpose: The R-15D district is for medium density residential single family town home development. This district is where public or private community water and sewer systems are provided. It is usually created out of the R-20 district where the developer of a subdivision or the homeowners desire the development standards for North Carolina Building Code "Town Homes."

(2) Permitted Uses:

- a. Only single family residential "town" homes and residential single family homes either of which are constructed in accordance with the North Carolina Residential Building Code.
- b. Accessory uses and accessory buildings customarily appurtenant to a permitted use and subject to provisions of Article VIII.
- c. Home occupation subject to the provisions of Article VIII.
- d. Public utility building, use and substations. Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. (WEF is not permitted)
- e. Municipal park, recreation areas.

(3) Special Use Permits Required: Consideration by the Board of Adjustment.

- a. Wireless Telecommunications Service (WTS). Shall comply with provisions of Article IX Section 9-7.
- b. Cemetery, religious establishments, community centers.
- c. Convalescent, rest or nursing homes.
- d. Golf courses, including par 3 but not miniature. Minimum 10 acres, together with such uses which are incidental to golf courses, provided that such uses are scaled to meet only the requirements of the members, guests or users of the golf course.
- e. School.
- f. Public utility facilities with associated office, storage or maintenance facilities. WEF is not a permitted use.

(4) Development Standards:

- a. Signs are permitted in accordance with Articles VII and XIV.

- b. Site development and landscaping in accordance with Article XII.
- c. Off street parking in accordance with Article XIII.
- d. Other sections of the zoning ordinance may apply as appropriate.
- e. Telecommunications facilities shall comply with Article IX development standards (9-7.2).
- f. A home owners association (HOA) shall be created for any new town home development regardless of the number of living units proposed. The HOA document shall address all common areas such as: water, sewer and drainage easements, maintenance and ownership, building maintenance and upkeep, appearance standards, landscaping maintenance and any other issues that the Town may identify for harmonious existence in the district.

(5) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	10ft., for opposite side yards. No setback for common property line between the living units.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	85ft.
Minimum lot area sq. ft.	15,000 for a single family house
Minimum lot area sq. ft.	7,500 for each unit of a town house development
Maximum lot coverage	40%

7-5 **Reserved for Future Codification**

7-6 **Reserved for Future Codification**

7-7 Commercial and Industrial Districts

7-7.1 RO Residential Office District

(1) Purpose: RO Residential Office District is designed to establish and preserve areas for employment activity and service to the public which do not materially detract from, but to co-exist with, professional office, limited commercial, and residential uses. This district is generally created along the south side of Howard Boulevard.

(2) Permitted Uses:

- a. Professional offices such as business, financial, medical, clinics, dental, veterinary, real estate, legal, governmental, contractors, etc., provided that no outside storage is maintained.
- b. Limited retail and personal services such as flower shops, barber and beauty shops, arts and crafts, clothing stores, eatery/cafe, pharmacy, etc. not to include tattoo or body piercing. The permitted establishments are generally for the convenience of local clientele and the size of the retail building is intended to encourage high volume retail to locate within the appropriate commercial district.
- c. Automobile parts and supplies, not to include used parts such as salvage yard.
- d. Building contractor office, not to include warehousing or storage of building material.
- e. Non profit lodges and civic clubs.
- f. Child care facilities.
- g. Art Museums/gallery, libraries and related cultural establishments.
- h. Community parks and community centers.
- i. A place of worship.
- j. Funeral home.
- k. Public utility building, use and substations. (Wind Energy Facilities are not a permitted use) Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance.
- l. Wireless Telecommunications Service (WTS).
- m. Accessory uses customary to the associated permitted use.
- n. Residential single family, duplex and apartment. Residences may also be permitted on any floor above other permitted uses in the district.

(3) Special Use Permits Required: Uses that require a Special Use Permit.

- a. Auction house, provided that outside display of merchandise is permitted only on the day of the sale.
- b. Public utility facilities with associated office, storage or maintenance facilities, (not to include Wind Energy Facilities).

(4) Development Standards:

- a. The limited commercial uses are permitted in buildings that do not exceed 2,000 sq ft. in gross area.
- b. None of the permitted or special/conditional uses shall allow the outside display or storage of merchandise or equipment including vehicles, boats, mobile homes, etc.
- c. Signs are permitted in accordance with Articles VII and XIV.
- d. Site development and landscaping in accordance with Article XII.
- e. Off street parking in accordance with Article XIII.
- f. Other sections of the zoning ordinance may apply as appropriate.
- g. Telecommunications facilities shall comply with Article IX development standards (9-7.2)
- h. Funeral homes shall be located on a parcel of land not less than one (1) acre; no portion of the structure may be closer than twenty-five (25) feet from any residential lot line.

(5) Minimum Setbacks and Lot Area for the District:

a. Setback for the district

Front yard	20ft.
Side yard	10ft.
Rear yard	15ft.
Corner lot	20ft on both street fronts

b. Lot area for the district

Maximum building height	35ft.
Minimum lot width	85ft
Minimum lot area sq ft.	15,000 commercial, residential, single or duplex
Minimum lot area sq ft.	3,000 sq ft additional for each unit over two.

Maximum lot coverage 40%

c. Minimum front yard setback is 40 feet along US Hwy 70 and 20 feet setback from secondary roads, such as 9 Foot Road, Roberts Road, E. Chatham St. or service roads. Corner lots shall be treated as having two front yards. Distance between buildings and structures shall comply with the NC Building Code. The "drip" off of canopies may encroach to within 15 feet of the front property line. Refer to Article III, section 3-5 for the placement of accessory uses such as vending machines and bank teller machines within the minimum setback.

7-7.2 NB-1 Neighborhood Business District

(1) Purpose: The NB-1 district is designed to provide areas where limited business and personal service establishments can locate near or within a residential district for the convenience or necessity of the neighborhood. This is an overlay district and is created only when the applicant can demonstrate that it is in the best interest of the neighborhood to locate there. Any one business of a type or kind is limited to a maximum gross floor area of 2,000 sq ft.

(2) Permitted Uses:

- a. Professional offices such as real estate, legal, accessory uses customarily incidental to the permitted use, cafe' convenient mart not to include fuel dispensing, car wash, and auto related services. Book and news stand, etc.
- b. Personal services such as barbershop, beauty shop, child care center, laundrette, pick-up laundry and dry cleaning stations, financial, doctor, dentist.
- c. Video gaming machines or stations limited to three (3) or fewer as accessory to convenience stores.
- d. Mixed use buildings.
- e. Public utility building, use and substations. Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. (Not to include WEF)

(3) Special Use Permits Required:

- a. Convenient mart which may include automotive fuel dispensing.
- b. Wireless Telecommunications Service.
- a. Public utility facilities with associated office, storage or maintenance facilities, (not to include WEF)

(4) Development Standards:

- a. None of the permitted or special/conditional uses permit the outside display or storage of merchandise or equipment including vehicles, boats, mobile homes, etc.
- b. Signs are permitted in accordance with Articles VII and XIV.
- c. Site development and landscaping in accordance with Article XII.
- d. Off street parking in accordance with Article XIII.

- e. Other sections of the zoning ordinance may apply as appropriate.
- f. Support equipment such as air compressors and air conditioners, which may generate loud noise, shall be located within sound proof enclosures.
- g. Outdoor lighting shall be directed away from adjacent residential properties.
- h. A privacy type fence, minimum six (6) feet high, shall be provided and maintained along the rear property line and property line adjacent to residential zoned property.
- i. Convenient marts and any other business that may create noise or disturb the quiet nature of nearby residences shall limit hours of operation to, between 5:00 am and 12:00 pm.

(5) Minimum Setbacks and Lot Area for the District

a. Minimum setbacks:

Front yard,	40 ft. Canopy may be 5 ft. setback.
Minimum side yard,	20 ft.
Minimum rear yard,	20 ft.
Corner parcels,	40 ft on both streets.

b. Lot area in the district:

Minimum district area,	20,000 sq ft.
Maximum district area,	43560 sq ft.
Minimum Lot width	100 ft.
Maximum height,	35 ft.
Maximum property coverage,	40%

7-7.3 CD - Commercial Downtown District

(1) Purpose: CD- Commercial Downtown District is designed to establish and preserve areas for business activity and serve the public with compatible uses within the historical central area of the Town which is located along parts of Chatham and East Chatham Street.

(2) Permitted Uses: Within the CD district, a building shall be used for the following uses only.

- a. Convenience retail establishments such as, but not limited to, pharmacy, hardware, grocery and beverage stores, hobby, crafts, gunsmith, bakery, flower and gift shops, news stands and book stores, general mercantile stores, clothing, variety, and similar small size businesses.
- b. Personal service establishments such as, but not limited to barber and beauty shops, tanning and aesthetician or esthetician shops not including tattoo and body piercing parlor, photo studios, libraries, child care centers, laundromats, laundry pick-up, tailor, dressmaking, shoe shop, photo studio, restaurants and similar personal services. Adult establishments are not permitted.
- c. Professional offices such as business, legal, financial, medical clinics and governmental.
- d. Lodges and civic clubs.
- e. Public schools and commercial schools providing training in any of the arts, sciences, trades and professions.
- f. Customary accessory uses, structures and buildings. Video gaming machines and/or other coin operated gaming machines not to exceed three (3) per establishment as accessory uses.
- g. Mixed use buildings.
- h. All of the permitted uses listed in the RO District except residential.
- i. Residential dwelling units are allowed on any floor above a first floor business which is operating five (5) or more days a week at least four (4) hours daily.
- j. Public utility building, use and substations. Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. (Not to include WEF)

(3) Special Use Permits

- a. Motor vehicle sales and service.
- b. Commercial recreation establishments, including theaters.

c. Public utility facilities with associated office, storage or maintenance facilities, (Not to include Wind Energy Facilities).

d. Any large accessory use or machine that will encroach in the minimum setback such as bank teller machines, ice manufacturing vending machine, etc. Refer to Article III, Section 3-5 for requirements.

(4) Development Standards:

a. There is no minimum lot size, width, or frontage in the CD district. Distance between buildings and structures are in accordance with the NC Building Code.

b. Maximum Building Height is 50 ft. measured from mean elevation of ground within 5ft. of building foundation and mean height of roof structure.

c. None of the permitted or special uses allow after close of business outside display or storage of merchandise or equipment with the exception of motor vehicle repair and/or sales lots and then only that material necessary for the service or marketability of the product. Junk or salvage vehicles or parts are not permitted to be stored or kept outside of a building. Maximum time for storage of vehicles outside of a building is thirty (30) days.

d. Signs are permitted in accordance with Articles XIV and VII.

e. Site development and landscaping in accordance with Article XII.

f. Other sections of the zoning ordinance may apply as appropriate.

g. There are no minimum parking requirements except the minimum accessible parking required by the Building Code.

(5) Minimum Setbacks and Lot Area

a. Minimum setbacks: only apply when the use abuts a zone with setbacks. CD use shall honor those abutting setbacks. The "drip" off of canopies may encroach to within 15 feet of the front property line. Refer to Article III, section 3-5 for accessory uses.

Front yard,	N/A
Minimum side yard,	N/A
Minimum rear yard,	N/A
Corner parcels,	35 feet on both streets

b. Lot area in the district:

Minimum district area,	N/A
Maximum district area,	N/A
Minimum lot width,	N/A
Maximum building height,	50 ft.
Maximum property coverage,	N/A

c. Minimum front yard setback is 40 feet along US Hwy 70 and/or 20 feet setback from secondary roads, such as 9 Foot Road, Roberts Road, E. Chatham St. or service roads. Corner lots shall be treated as two front yards. Distance between buildings and structures shall comply with the NC Building Code.

7-7.4 CH-Commercial Highway District

(1) Purpose: CH- Commercial District is to provide commercial opportunities to the traveling public and areas in the Town where large scale commercial projects may take place with minimum impact on contiguous residential development. This district is designed to support local as well as regional shopping centers and business complexes. As such, the district will accommodate a wide range of business and commercial uses, clustered where feasible for “cumulative attraction” and located for optimum accessibility.

The Town desires to limit and control the access from commercial properties onto HWY 70 in order to discourage the proliferation of traffic signals along the thoroughfare and maintain unimpeded flow of vehicular traffic along the highway. In doing so, a planned access will only be allowed only by a Special Use permit.

(2) Permitted Uses:

- a. Primary retail establishments such as those selling one-stop items, usually high bulk, including but not limited to home furnishings, business machines, heating and air conditioning, appliance sales and service, and similar establishments; also including establishments sales and service, repair motor vehicles, boats, farm equipment, tombstones, bicycles and service, small motor repair . Any single retail establishment that exceeds fifty thousand (50,000) square feet in gross sales floor area is separately defined as “big box” retail. Motels.
- b. Convenience retail establishments such as but not limited to pharmacy, hardware, restaurants with or without serving alcohol beverages, appliance service and repair, grocery, general mercantile stores.
- c. Personal service establishments such as but not limited to barber and beauty shops, tanning and aesthetician or esthetician to include tattoo and body piercing parlor, health care establishments, physical fitness, etc., not to include adult uses as defined herein. Financial and banking, photo studios, libraries, child care centers, laundromats, laundry pick-up, tailor, dressmaking, shoe shop, photo studio, print shop, restaurants with drive-through and similar personal services. Dry storage (Mini-storage warehousing), where all storage is inside of the building and the maximum size of individual stalls not to exceed 300 square feet. The storage stalls shall not be used for sleeping accommodations. Special attention is given to litter and unsightliness, Ice and other vending machines.
- d. Building and home furnishing supplies. Intended for “within” building enclosure lumber storage. Outside storage shall be out of view of the primary highway.
- e. Funeral homes.
- f. Recreation establishments, including theaters, indoor shooting range, miniature golf, water slides and arcades, helicopter rides and other aircraft rides and tours, indoors and outdoor multi recreation and entertainment such as rodeos, fairs, circus, carnival, bowling alleys, car/boat shows, ball stadiums, race tracks, swimming pools.

- g. Schools providing training in any of the arts, science, trades and professions.
- h. Customary accessory uses, structures and buildings.
- i. Worship and religious institutions.
- j. Gas Stations, motor vehicle service, repair, car wash, boat and and similar activity provided, there shall be no openings toward adjoining residential districts and no junked salvaged vehicles or used/salvaged parts or equipment shall be kept on the outside unless approved by a Special Use Permit.
- k. Public and private transportation service and facilities.
- l. Wireless telecommunications facilities shall comply with Article IX development standards (9-7.2).
- m. Residential dwelling units where located on any floor above the first floor. These units can be single family, apartments, condominium, etc.
- n. Accessory uses customarily incidental to permitted uses. Accessory uses associated with activities such as poolside, restaurants, night clubs and radio broadcast studios, drive-up or drive-in service and the like. The zoning official shall determine the appropriate action necessary to mitigate any noise, air pollution, litter, or unsightliness. Any complaint mitigation of the offending use may include limiting hours of operation, erecting buffers, or any other enforcement provided for in the Zoning Ordinance.
- o. Public utility building, use and substations. Utilities substations shall be surrounded by screening and or landscaping as provided for in this Ordinance. Storage or maintenance facilities is not a permitted use. Refer to Special Use Permits. WEF is not a permitted use.

(3) Special Uses:

- a. Any permitted use or modification of a facility or use that requires the construction of an ingress or egress drive from US Hwy 70 into the property. Hwy 70 is designated as a limited access highway and therefore requires a permit from the NC Highway Department and from the Newport Board of Adjustment:
 - 1. The owner or agent for the owner shall include in the application the name and address of all persons owning an interest in the permitted use.
 - 2. The nature and proposed or contemplated use.
 - 3. A plat of the land upon which the use is located showing all access to the highway within 500 feet of the proposed use.
 - 4. The distance to the nearest intersection on each side of the use location.
 - 5. Location of service roads.

6. A statement of the need for the proposed direct access and why a nearby access cannot be used or is inadequate.

7. the Board may grant the access after finding that:

a. Granting will not confer upon the applicant an advantage not accorded to others whose property is similarly situated.

b. Present access is inadequate.

c. In the opinion of the Board, traffic flow and patterns will not be substantially adversely impaired.

d. In the opinion of the Board, public safety will not be significantly impaired.

e. There are no reasonable alternatives which would provide adequate access.

f. The applicant may be required to share the access with present or future adjacent land uses

g. Any other consideration or requirement the Board deems necessary.

h. Public utility facilities with associated office, storage or maintenance facilities, (Not to include Wind Energy Facilities).

b. Adult establishments and uses. Refer to the requirements of Section 9-4 of this Ordinance.

c. Bar or night club. the Board may limit the close proximity or clustering of such businesses.

d. surplus materials, heavy machinery, manufactured homes service and repair, light manufacturing or fabrication establishes that is conducted within doors or any similar business may be favorably considered after consideration of appearance, noise etc. associated with roadway and neighboring property.

(4) Development Standards:

a. None of the permitted or special uses allow after close of business outside display or storage of merchandise or equipment with the exception of vending machines, and equipment in accordance with Article III, Section 3-5, motor vehicle repair and/or sales lots and then only that material necessary for the service or marketability of the product. Junk or salvage vehicles or parts are not permitted to be stored or kept outside of a building. Maximum time for storage of vehicles outside of a building is thirty (30) days.

- b. Construction offices where machinery, trucks, equipment etc., are stored out-of-doors. Special attention shall be given to mitigate problems with noise, congestion, litter and unsightliness and all such equipment, machinery and vehicles shall be screened from view by fencing to a minimum height of five (5) feet and landscaping and screening as provided elsewhere in this Ordinance.
- c. There is no minimum lot size, width, or side and rear setbacks. Minimum front yard setback is 40 feet along US Hwy 70 and/or 20 feet setback from secondary roads, such as 9 Foot Road, Roberts Road, E. Chatham St. or service roads. Corner lots shall be treated as two front yards. Distance between buildings and structures shall comply with the NC Building Code. The "drip" off of canopies may encroach to within 15 feet of the front property line. Refer to Article III, section 3-5 for the placement of accessory uses such as vending machines and bank teller machines within the minimum setback.
- d. Maximum Building Height is seventy (70) feet. (Definition of building height in Article II.)
- e. Signs are permitted in accordance with Articles XIV and VII.
- f. Site development and landscaping in accordance with Article XII.
- g. Off street parking in accordance with Article XIII.
- h. Other sections of the zoning ordinance may apply as appropriate.

7-7.5 LI-Light Industrial District

(1) Purpose: The purpose of this district is to encourage the development of business and manufacturing uses relatively free of offensive elements. Industrial uses which may involve the manufacturing, processing, assembly, operation, storage of materials or equipment and public utility operations that are conducted within doors. Special attention shall be placed on buffering and landscaping.

(2) Permitted Uses:

- a. Administrative offices associated with related industrial use.
- b. Wholesale establishments, office buildings and institutions.
- c. Manufacturing, assembly and processing uses that are conducted indoors such as electronics, small appliances, electrical/mechanical supplies and distribution, testing laboratories, furniture manufacturing, manufacturing or assembly of previously processed raw material such as clothing, plastic, paper, leather, precious or semi precious metals or stones, but not such operations as lumber mills, rock crushing or the like from raw materials. Boat manufacturing and the like.
- d. Alcohol and other beverage manufacturing and distributing, bakeries, boat manufacturing and repair facility. Appliance repair,
- e. Automotive and other vehicle wash, repair centers and parts not to include salvage or reeking yards.
- f. Building materials sales yard not to include concrete mixing plant, asphalt processing or handling areas.
- g. Building contractor shops, dry storage (mini storage) to include outside storage of RV, boats etc., where special attention is given to mitigate unsightliness. Chemical manufacturing, refining or processing except those processes prohibited in this section.
- h. Dairy products processing and distribution. bakeries
- i. Telecommunications facilities shall comply with Article IX development standards (9-7.2).
- j. One residential dwelling unit for the purpose of security or caretaker living quarters.
- k. Indoor/ out of doors recreation facilities.

(3) Prohibited Uses: Certain manufacturing or processing products or chemicals by their nature are declared incompatible with and injurious to the Town and its environs, and therefore are expressly prohibited by this part. Such prohibited uses include but are not limited to:

- a. The manufacture of acid, ammonia, aniline colors or dyes, lime and sulfates, coal tar products, fertilizer,

glue, gelatin, industrial poisons or chemicals, lampblack, matches, oil cloths or linoleum, paper or pulp, printing ink, pyroxylin or celluloid products, rubber or leather goods, tar or waterproofing products, slaughter houses, rolling mills and coke ovens, and the manufacture of gunpowder, fireworks,, or other explosives or explosive substances, except fixed ammunition.

- b. The distilling or grinding of coal, wood, bones or shells.
- c. The manufacturing, rendering or refining of fats, soap, tallow, grease or lard.
- d. The manufacture or refining of asphalt.
- e. Iron or steel foundry or works.
- f. Tanning, curing or storing of raw hides or skins, leather, or hair.
- g. The manufacture of disinfectants or insecticides.
- h. Truck terminals.
- i. Saw mills and the processing of raw wood lumber products.
- j. Cement or concrete plants.
- k. Domestic animal boarding kennel.

(4) Special Uses: Owing to the potential negative impact on the community, the following uses may be approved as special uses by the Zoning Board of Adjustment:

- a. The use of a prohibited chemical, product or process in a permitted industrial use shall be considered by the Board of Adjustment on a case by case basis. The decision to bring the matter before the Board is made by the Zoning Official. the Board may summon or subpoena expert witnesses to testify and shall at minimum have the Fire Inspector, Public Utilities Director and any other town official as necessary to testify at the hearing prior to making a decision.
- b. Any non offensive manufacturing use that is not expressly prohibited in this chapter that the Board finds is appropriate for the district
- c. Wind Energy Systems. WEF shall be developed in accordance with Article IX, Section 9-6.1 as appropriate.

(4.1) Conditional Use Permits (CUP): Refer to Article I, Section 1-14, Consideration of Conditional Use permit and Rezoning. This type of Permit shall be reviewed by the Planning Board and Permits issued or denied by Town Council.

a. Solar Farm Facility. SFF shall be developed in accordance with Article IX, Section 9-9.

(5) Development Standards:

a. Minimum lot area is 20,000 sq. ft.

b. Minimum lot width at the street 35 ft.

c. Maximum height of building if located within 200 ft of a residential district 50 ft. unless approved by a Special Use Permit.

d. Maximum lot coverage 35% for Industrial and office buildings, 45% for warehouse, 55% for personal storage.

e. Minimum front yard setback is 40 foot setback along US Hwy 70 and/or 20 feet setback from secondary roads, such as 9 Foot Road, Roberts Road, E. Chatham St. or service roads. Corner lots shall be treated as two front yards. Distance between buildings and structures shall comply with the NC Building Code. The "drip" off of canopies may encroach to within 15 feet of the front property line. Refer to Article III, section 3-5 for the placement of accessory uses such as vending machines and bank teller machines within the minimum setback.

(6) Other Development Standards:

a. Special attention shall be given to the out-of-doors storage of equipment, trucks etc., to mitigate problems of noise, congestion, odor, dust, litter, and unsightliness which may require fencing, additional landscaping and buffering.

b. Area lighting shall not cause glare to other off premise business establishments or nearby residential neighborhoods.

c. PA systems shall not be situated or the volume level set so as to cause a nuisance to any off premise business or residential neighborhoods.

d. Signs are permitted in accordance with Articles XIV and VII.

e. Site development and landscaping in accordance with Article XII.

f. Off street parking in accordance with Article XIII.

g. There shall be no emission of any fumes, vapors or gases of a noxious, toxic, or corrosive nature which can cause any damage or nuisance to other uses beyond the property line.

h. Activities which could produce any adverse effect on the temperature, motion, or humidity of the atmosphere beyond the property line shall not be permitted.

7-7.6 IW Industrial Warehouse District

(1) Purpose: IW Industrial Warehouse District is to permit the development and operation of uses and processes that are determined by the Board of Adjustment to be necessary and beneficial to the Town and are ordinarily prohibited in any other district as a special or permitted use.

(2) Permitted Uses:

- a. All uses that are Permitted Uses listed in the LI-Light Industrial District.
- b. Alcohol and beverages manufacturing, bakeries.
- c. Motor vehicle, boat, aircraft and the like manufacturing and/or repair garages.
- d. Telecommunications systems and towers.
- e. Any use, production or manufacturing not listed as permitted uses can be considered by the Board of Adjustment and may be approved as a Special Use in the IW District, (except Wind Energy Facilities).

(3) Prohibited Uses: Any use determined by the Board of Adjustment as not compatible with the surrounding area or within the district.

(4) Special Use: A use or process that is in the list of special uses and prohibited uses in the LI-Light Industrial District may be considered.

- a. A use of a prohibited chemical, product or process in an industrial use shall be considered by the Board of Adjustment on a case by case basis. the Board may summon or subpoena expert witnesses, at the expense of the applicant, to testify and shall at minimum have the Fire Inspector, Public Utilities Director and any other Town Official as necessary to testify at the hearing prior to making a decision.
- b. Wind Energy Systems. WEF shall be developed in accordance with Article IX, Section 9-6.1 as appropriate.

(4.1) Conditional Use Permits (CUP): Refer to Article I, Section 1-14, Consideration of Conditional Use permit and Rezoning. This type of Permit shall be reviewed by the Planning Board and Permits issued or denied by Town Council.

- a. Solar Farm Facility. SFF shall be developed in accordance with Article IX, Section 9-9.

(5) DEVELOPMENT STANDARDS:

- a. There is no minimum lot size, width, or side and rear setbacks. Minimum front yard setback is 40 feet

along US Hwy 70 and/or 20 feet setback from secondary roads, such as 9 Foot Road, Roberts Road, E. Chatham St. or service roads. Corner lots shall be treated as two front yards. Distance between buildings and structures shall comply with the NC Building Code.

b. Maximum Building Height is Seventy (70) feet measured from mean elevation of ground within 5ft. of building foundation and mean height of roof structure. the Board of Adjustment may grant heights greater than 70 feet to structures and equipment on a case by case basis.

c. Signs are permitted in accordance with Articles XIV and VII.

d. Site development and landscaping in accordance with Article XII.

e. Off street parking in accordance with Article XIII.

f. Other sections of the zoning ordinance may apply as appropriate.

7-8 CU Conditional Use Districts

a. A Conditional Use District (bearing the designation CU) corresponds to each of the other districts authorized in this Zoning Ordinance. It is recognized that certain types of zoning districts would be inappropriate at particular locations without applying special conditions. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the CU is a means by which such special conditions can be imposed in the furtherance of the purpose of this Ordinance. The CU classification will be considered only upon request of the applicant for rezoning. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this section that the authorization of such CU Permit shall be null and void and of no effect and that proceedings be initiated to rezone the property to its previous zoning classification.

b. Within a CU District only those uses authorized by Section VII as permitted in the zoning district with which the CU District corresponds shall be permitted and all other requirements of the corresponding district shall be met. In addition, within a CU District no use shall be permitted except pursuant to a Conditional Use Permit authorized by the Town Council, which shall specify the use or uses authorized. Such permit may further specify the location on the property of the proposed use or uses, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas, and other special purpose areas, the timing of development, the location and extent of right-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting a CU Permit, the Town Council may impose such additional reasonable and appropriate safeguards upon such permits as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done.

c. The authorization of any CU Permit in any CU District for any use which is permitted only as a Conditional Use in the zoning district which corresponds to the CU District shall preclude any requirements for obtaining a Conditional Use Permit for any such use from the Board of Adjustment.

7-8.1 R-8 CU Residential-Single Family District

Identical to R-8 except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.2 R-10 CU Residential-Single Family District

Identical to R-10 except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.3 R-15 CU Residential-Single Family District

Identical to R-15 except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.4 R-20 CU Residential-Single Family District

Identical to R-20 except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.5 R-20A CU Residential-Single Family District

Identical to RA-20 except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.6 RO CU Residential-Single Family District

Identical to RO except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.7 CD CU Downtown Commercial District

Identical to CD except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.8 CH CU Limited Access Commercial Highway District

Identical to CH except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.9 LI CU Light Industrial District

Identical to LI except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.10 IW CU Industrial Warehouse District

Identical to IW except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.11 R-15D Residential Single Family Town House District.

Identical to R-15D except that a Conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

7-8.12 NB-1 CU neighborhood Business District.

Identical to NB-1 except that a conditional Use Permit is required as a prerequisite to any use development as outlined in Section 7-8.

ARTICLE VIII**ACCESSORY USES.****8-1 Home Occupations**

a. Home occupations are defined in this Ordinance and permitted in an R district provided that such occupations comply with the following standards which are established to preserve the residential character of the neighborhood and/or dwelling.

b. Only one person other than those residing in the home shall be engaged in the occupation at the dwelling.

c. The home occupation is clearly incidental and secondary to the residential use of the building.

d. The occupation shall not be visible from the street and no remnants, debris, materials or equipment in connection with the home occupation shall be kept or stored on premises, except within the approved building.

e. The use will not materially increase vehicular or pedestrian traffic over that normally found in the residential neighborhood nor will any additional parking be needed or provided.

f. On premise retail sales is prohibited as the primary home occupation, except where it is incidental to the primary occupation, such as the sale of art supplies to students in a home occupation, "art teacher."

g. Accessory building may be used for a home occupation. Accessory buildings shall not be equal to or exceed the area of the primary dwelling.

h. No outside signs or advertisements shall be displayed on the premises, nor shall merchandise or articles be displayed so as to be visible from outside the building.

i. The occupation shall not constitute a nuisance or any undue disturbance in the neighborhood. No noise, dirt, fumes, odor, etc., not normally appurtenant to residential use nor greater in intensity or duration than that customarily associated with a dwelling shall be emitted as a result of the home occupation.

j. No more than one commercial vehicle shall be permitted to be kept or operated on or about the premise and this vehicle shall not exceed three-quarter (3/4) ton rated capacity.

k. The use shall not involve the storage of flammable, hazardous or explosive materials unless specifically approved by the fire official and the building inspector.

l. The home occupation shall be registered with the Town of Newport and pay all privilege license fees where applicable.

m. Home occupations may consist of, but are not limited to, the services listed below:

1. Registered child day care.
2. Beauty shop, ironing, sewing service, photographer and the like.
3. Home office.
4. Crafts.
5. Gun smith.

8-2 Accessory Uses and Buildings

a. A use may be established as an accessory use to any permitted principal use in any zoning district provided that such accessory use:

1. Is customarily incidental to, maintained and operated as part of the principal use; and
2. Does not impair the use or enjoyment of nearby property nor create hazards in greater degree than

the associated principal use; and

3. Does not create levels of noise, odor, light, vibration, dust, pollution, or traffic hindrance in greater degree than the associated principal use.

b. Permitted uses accessory to dwellings are:

1. Private garages, open storage space or parking area for motor vehicles, provided that such space shall not be used for more than one commercial vehicle, not more than three-quarter (3/4) ton capacity per family residing on the premises.

2. Shed or tool room. Children's playhouse and play equipment.

3. Private recreation facilities and community structures including swimming pool and bath house or cabana, clubhouse, tennis courts, etc., owned, used, and maintained by tenants of principal buildings.

4. Structures designed and used for purposes of shelter in the event of man made or natural catastrophes.

5. Non-commercial flower, ornamental shrub or vegetable garden, greenhouse or slat house not over twelve feet in height.

c. Permitted uses accessory to church buildings are:

1. Religious education buildings.

2. Parsonage, pastorium or parish house, together with any use accessory to a dwelling as listed herein.

3. Off-street parking area or garage for use without charge and only as an accessory use to a permitted use on the same parcel or tract.

4. Completely enclosed building for storage of

supplies or equipment.

d. Permitted uses accessory to retail businesses, office uses, commercial, and retail recreational facilities are:

1. Off-street parking, client or employee-owned vehicle.

2. Completely enclosed building for the storage of supplies, stock or merchandise.

e. Uses customarily accessory to retail, commercial trade, or commercial light industry facilities are:

1. Manufacturing and/or repair facility incidental to the principal use provided that dust, odor, smoke, noise, vibration, heat or glare produced as a result of such manufacturing or repair operation is not perceptible from any boundary line of the lot on which said principal and accessory uses are located.

2. Gasoline and fuel oil pumps and storage tanks.

f. Caretaker's quarters: A permanent residence located within the building or on the site of a permitted commercial or industrial use. This use is an accessory use to the primary use in the district. The requirements herein are in addition to any other requirements in this section:

1. The residence shall meet the minimum requirements of the North Carolina Residential Building Code.

2. At least two parking spaces shall be provided for the quarters in addition to the minimum parking required for the primary use.

3. Any play area shall be clearly separated from the primary use so as not to cause danger, distractions or interference to the primary use.

4. The quarters shall be used solely by the owner or for a watchman, caretaker or custodian of the facility or use on the same site.

5. The quarters shall be clearly incidental and accessory to the permitted principal use(s) on the same parcel and shall not exceed 50% of the area of the principal use except by favorable consideration of a special use permit. If the use(s) to which the quarters is accessory change or cease, the applicant shall demonstrate, within 60 days of the change, the need to continue the quarters for the use or convert the quarters into a permitted principal use allowed in the district.

6. There shall be no more than one (1) such quarters on any one (1) lot.

7. The quarters shall be architecturally compatible with the principal use structures on the same lot.

8. If the quarters are for the use of the owner/operator of a commercial use and is attached to the principal use building then, where practical, the main entrance to the quarters shall be to the side or rear of the building.

8-2.1 Size of Accessory Buildings

a. In an R District, shall not occupy more than forty percent (40%) of the rear yard area.

b. An accessory building shall not exceed the square foot area of the primary building in an R district (except in an R-20), nor exceed a height of twenty-five (25) feet where located within an R district.

8-2.2 Location of Accessory Buildings

a. Accessory uses and buildings shall comply with the setback requirements of the zoning district in which they occur and shall not be located forward of the primary structure or building unless permitted

elsewhere in this Ordinance. In the case of a corner lot, such accessory use or building shall be setback from the right-of-way of the abutting side street a distance equal to the front yard setback established for principal uses in the district.

b. Accessory buildings shall not be closer to the side street than the front building line of the adjacent principal building which faces the side street.

c. Accessory buildings or structures in an R district, except detached carports, and water pump shelters not exceeding a height of 4 feet, shall not be located forward of the front building line of the primary building. Bus stop shelters may be permitted as a Special Use Permit.

8-2.3 Accessory Building Appearance

a. Accessory buildings and structures shall be maintained in good repair and condition and shall not detract from the principal building, nor disturb the quality of the neighborhood appearance, by displaying unpainted, bright metal, or garish contrasting surfaces. Where an accessory building or structure becomes a condition contrary to this chapter, the owner shall make necessary repairs or remove and dispose of it.

b. An accessory or storage building displaying unfinished bright metal exterior is prohibited. Shipping containers, truck bodies, buses, mobile homes, similar buildings, structures and/or items are prohibited as accessory buildings except where approved for temporary use.

c. Accessory buildings and structures shall be anchored and tied to the ground in a manner so as to prevent flotation during periods of flooding and to prevent them from being blown from their foundations during periods of high winds, as provided for in the North Carolina Building Code.

d. Accessory building may be used for guest quarters. No guest quarters and a companion unit shall be installed on the same lot except by a Special Use Permit.

8-2.4 Prohibited Uses in Residential Districts.

a. Any use not explicitly allowed in a Residential District by Article VII of this Ordinance or other sections of the zoning ordinance is prohibited. The enumeration of prohibited uses shall not be deemed exclusive or all-inclusive. Prohibited uses include:

1. Any club or organization for profit not otherwise allowed in the district.
2. Any use of business, commercial, or industrial character not otherwise specifically allowed in the district.
3. Open dump.
4. Signs not explicitly allowed in a district.
5. The outside storage of two (2) or more unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automotive or recreation vehicles. Any vehicle permitted under this part shall not be stored in the front yard or within sight of the street and if it becomes an attractive nuisance or a health and safety hazard as defined in the Ordinance dealing with abandoned, junked or nuisance vehicles, then such vehicle shall be removed from the premise or properly stored inside of an approved structure. The accumulation of vehicle parts, construction debris, tools, equipment, trash furniture and the like in the front yard or within sight of the public right of way; where stored or kept in the rear yard, shall not become an eye sore or nuisance to neighboring property.
6. The storage of any mobile or manufactured home. Storage in this part means the keeping or

placement of any manufactured or mobile home that does not have a valid zoning/building permit for such use.

7. The living or sleeping in any storage shed or structure that does not meet or exceed all requirements of the NC Building Code(s) not otherwise permitted in this Ordinance.

8-2.5 Prohibited Uses in Other Than Residential Districts.

Any use not explicitly allowed in other than residential districts by Article VII of this Ordinance or other sections of the zoning ordinance is prohibited. The enumeration of expressly prohibited uses shall not be deemed exclusive or all-inclusive. Prohibited uses include:

1. Any use of business, commercial, industrial or residential character not otherwise specifically allowed in the district.
2. The storage of any unlicensed, uninspected, wrecked, crushed, dismantled, or partially dismantled automobile or recreation vehicles including mobile or manufactured homes, unless stored in compliance with other provisions of the Ordinance and within districts permitting such use.

8-3 Swimming Pools

a. The swimming pool, or the entire property on which it is located, shall be so walled or fenced as to prevent uncontrolled access by children from the street or from adjacent properties. The said wall or fence shall be at least four (4) feet high. All gates or doors opening through such an enclosure, other than the door of any dwelling which forms a part of all of such enclosure, shall be equipped with a self-closing and self-latching device designed to keep the said gates or doors securely closed at all times when not in actual use. The self-latching device shall be

placed at least three (3) feet six (6) inches above the ground.

b. The pool and above ground decking shall not be located in the minimum setback yard.

c. The area of the pool may be computed as part of the open yard if the height of the pool is less than four (4) feet above ground.

d. Lighting shall be so placed or shielded as to prevent direct rays being visible on adjacent properties.

e. A public address system for the supervision and safety of swimmers shall be the only broadcast device permitted.

8-4 Stables and Kennels

Shall be permitted in an R-20 District, provided that a stable or kennel shall meet all other requirements of the R-20 district unless located on a bona fide farm.

8-5 Animals Prohibited as Accessory Uses.

Barn yard animals, marsupial, domesticated pig, exotic or wild animals and fowl are prohibited from being kept, penned or housed in a residential district except where on a bona fide farm or in an R-20 district.

8-6 Companion Unit.

a. A companion unit may be attached to the primary dwelling unit as a permitted use, provided that there is direct communication via an unobstructed door way to the primary unit. The companion unit may have separate bath and cooking facilities and shall not exceed eight hundred sixty four (864) net sq.ft.

b. The companion unit shall not be otherwise used

for rental property unless permitted by other provisions of this Ordinance.

c. The intent of this provision is to provide for a housekeeper, nursing or care person to be housed and attend to the daily medical or personal care of a family member or relative.

8-7 Yard or Garage Sales

The occasional private sale of household effects is a permitted use within any R district with the following restrictions:

a. No more than two (2) days within the preceding sixty (60) days shall be used for garage or yard sales.

b. Two or more families may combine and have such sale.

c. Tables and setup displays will be installed only on the day of the sale and shall be removed along with all evidence of the sale by the close of the last day of such sale.

d. Single items that belong to the household, such as boats motor vehicles, lawnmowers, etc., may be displayed on the premise for sale for an indefinite period of time provided, however that the item is not obtained for the purpose of resale, or the item does not become a nuisance.

8-8 Fallout Shelters

Fallout shelters or storm shelters are permitted as principal or accessory uses in any district subject to the yard requirements of the district. Shelters shall be maintained so as not to become a hazard or blight to the community.

8-9 Photovoltaic Systems (Solar Panels) and other Solar Devices

a. Photovoltaic panels as used herein includes one or more solar collectors placed on a parcel of land or incorporated on or within a building or structure for the purpose of generating electricity as an accessory use for residential, commercial, Industrial or other uses. Within this Article, the panels are not of the quantity or electrical capacity to be used primarily to supply the electrical utility grid. However, notwithstanding anything to the contrary contained herein, the term "solar farm" shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating or generating electricity for a uses stated in this part. Nothing in this part is intended to prohibit the sale or furnishing excess energy to the public utility.

b. If the total electrical generating capacity of the system is capable of producing more than fifteen thousand watts (15KW) direct current (DC) when operating at maximum efficiency, the permit owner shall be required to apply for a Special Use Permit from the Zoning Board of Adjustment. Refer to Article IX of this Ordinance.

c. All Photovoltaic systems and other solar devices, where applicable, shall be designed and installed in accordance with the North Carolina Building Code.

d. Refer to Article IX of this Ordinance for solar devices that are used or go beyond this part.

8-10 Other innovative Energy systems.

a. It is not the intent of this ordinance to prohibit the use of innovative energy systems as accessory uses such as Heat Producing or Wind Energy Systems that are not otherwise regulated by Special Use requirements in other Sections of this Ordinance.

b. A Small Wind Energy System that does not exceed rated capacity of twenty five kilowatt (25KW)

may be considered an accessory use to supplement electrical power for a residence or business.



Examples of Accessory Use: Residential Solar Panels and Wind Energy system

ARTICLE IX**PROVISIONS FOR SPECIAL USES****9-1 General Restrictions**

Permission may be granted for the establishment of uses listed as Special Uses by the Zoning Board of Adjustment if the Board of Adjustment finds from the evidence produced after a study of the complete application records that:

- a. The proposed use does not affect adversely the general plans for the physical development of the Town as embodied in these regulations or any plan or portion thereof adopted by the Town Council; and
- b. The proposed use will not be contrary to the purposes stated in these regulations; and
- c. The proposed use will not affect adversely the health and safety of residents and workers in the Town; and
- d. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses; and
- e. The proposed use will not be affected adversely by the existing uses; and
- f. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use; and
- g. The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use such a facility, vehicular movement, noise or fume generation, or type of physical activity; and
- h. The standards set forth for each particular use for

which a permit may be granted have been met; and

i. The proposed use shall be subject to the minimum area, setback and other requirements of the zoning district in which it will be located or other setbacks as stated herein; and

j. The proposed use shall be subject to the off-street parking and service requirements of these regulations. and

k. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town.

9-2 Additional Restrictions and Revocation of Permits

a. The Board of Adjustment may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, protect property values and the general character and welfare of nearby areas.

b. Wherever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions upon which such permits were granted are not being complied with, said Board shall rescind and revoke such permits after giving the notice to all parties concerned and granting full opportunities for a Public Hearing.

c. The Newport Planner or his designee may impose a civil penalty, in accordance with the Town's Civil Penalty Ordinance, for any violation of the Special Use permit or any requirement of this Ordinance in addition of any other remedy prescribed by law. Each day of a continuing violation shall constitute a

separate violation.

9-3 Uses Which May be Permitted

The Board of Adjustment may grant permission for the establishment of the following uses where they are listed as special uses in the district, subject to any specific conditions either set forth below or which said Board may deem necessary to satisfy the conditions set forth in 9-1 above.

9-3.1 Cemetery

A cemetery shall not be located on the same lot with any other use except a bona fide church or mortuary and shall not be smaller than the minimum lot size in the district and meet the minimum requirements of the Carteret County and North Carolina State Health Departments.

9-3.2 Golf Course

A golf course may be permitted in an R district subject to the requirements of the district and provided that all greens and fairways shall be set back at least twenty five (25) feet from any property line.

9-3.3 Convalescent, Nursing Home, Rest or Care Home.

A care center for the aged disabled, or handicapped including convalescent or nursing home may be permitted in an R district subject to the requirements of the district and provided that:

- a. The lot size shall be no less than two (2) acres.
- b. The structure shall have minimum side and rear yards of fifty (50) feet and a front yard of at least twenty-five (25) feet greater than that required for single-family residences within the district.

c. Site plan shall be approved in accordance with Article XII.

d. Emergency standby electrical power source, adequate for providing heat, light and minimum facilities for the type of medical need and comfort of the tenants without requiring outside assistance is available.

e. A staff vehicle appropriately equipped to transport, on a 24-hour basis, any tenant to the doctor or hospital for non-emergency care is available.

f. A covered walk, canopy, or roof, approved by the Board to provide a protected area of vehicle discharge so as to enable passenger ingress/egress into the main building in inclement weather is available.

9-3.4 Child Day Care

Day-care facilities may be permitted in an R district subject to the requirements of the district, and required State standards and provided that:

- a. At least one hundred (100) square feet of out-door play area is supplied for each child accommodated.
- b. The entire play area be enclosed by a fence having a minimum height of at least four (4) feet and constructed in such a manner that maximum safety to the children is ensured.

9-3.5 Condominium

- a. Condominium is an ownership concept therefore, does not in itself require zoning approval.
- b. Condominium ownership may be used on any style of construction, subject to zoning district regulations, and North Carolina Building Code.

c. There may be projects such as duplex, apartments or planned unit developments that may incorporate the condominium ownership concept. These projects may incorporate condominiums in the zoning approval.

9-3.6 Manufactured Home Parks (Mobile Home Park)

A manufactured home park may be permitted in an R-20MH district as a permitted use and in an R-20 as a Special Use Permit. All manufactured Home Parks shall be developed in accordance with the requirements of this section.

9-3.6.1 Park Development Standards

a. Area. The minimum manufactured home park size shall be three (3) acres.

b. Density. The density of the number of manufactured homes per acre will be determined by the minimum lot sizes, recreation areas, and streets within the park as required by this chapter.

c. At least twenty (20%) percent of the total number of manufactured home lots shall be designed for single wide units, which shall accommodate units eighty (80) feet in length and fourteen (14) feet in width. The maximum size of the units they can accommodate shall be noted on the development plans.

d. Landscaping and Fencing. Screened planting strips, not less than ten (10) feet wide shall be established and permanently maintained between the park and all incompatible peripheral boundary lines of the park.

1. Street frontages shall be provided with landscaped buffers adjacent to the public right-of-way except where cut by an access drive, and

occupy a minimum of sixty (60) percent of the required thirty (30) feet setback area.

2. At least one tree, minimum two (2) inch caliper size, shall be provided on each mobile home lot.

3. All areas of a mobile home park not occupied by approved paving or by trailer park facilities held in common shall be landscaped.

e. Park Roads.

1. A roadway of at least thirty (30) feet shall be provided to accommodate public utilities, drainage, etc., with the road at least eighteen (18) feet wide, paved.

2. Park roadways shall be illuminated with a minimum of 0.2 foot candles of light at the roadway's surface. Lights shall be directed away from adjacent properties.

f. Guest Parking and Vehicle Storage.

1. There shall be provided one (1) paved guest parking space for every three (3) mobile home lots. Parking shall be uniformly distributed throughout the manufactured home park.

2. There shall also be provided one (1) storage space for every eight (8) mobile home lots to accommodate recreational vehicles, boats, boat trailers and similar equipment. Each storage space shall be at least ten (10) feet wide and twenty-five (25) feet long. This space shall have an all weather surface and may be marl, rock, etc.

g. Recreation Areas.

1. There shall be a common recreation area equal to at least two hundred (200) square feet for each mobile home lot.

2. All public areas and buildings shall be illuminated with a minimum of 0.2 foot candles at the ground surface. Lights shall be directed away from adjacent properties.

3. Pedestrian pathways shall be provided to recreation area.

h. Underground Utilities.

All utility services, including but not limited to water, sewer, electrical, cable TV, gas and telephone lines, shall be placed underground.

9-3.6.2 Manufactured Home Lot Development Standards

a. Each and every manufactured home in a park shall be located on an approved manufactured home lot. There shall be no more than one (1) mobile home per mobile home lot. No mobile home lot shall be occupied by any other type of living quarters.

b. Each manufactured home lot shall have provisions for a fifteen (15) foot wide access to one (1) of the park roads.

c. There shall be a minimum of twenty (20) feet between any manufactured home and any other structure.

d. Two (2) paved parking spaces shall be provided for each mobile home lot.

e. Each mobile home lot not occupied with structures or other landscaping shall be landscaped with grass.

f. Where centrally located waste containers are used, they shall be no further than one hundred fifty (150) feet from any lot.

g. Each lot shall be clearly defined by means of concrete, steel or iron pipe markers placed at all corners.

9-3.6.2.1 Lot Size.

The minimum lot size shall not be less than;

1. Five thousand (5,000) square feet if served by both a community water and sewage disposal system

2. Seven thousand (7,000) square feet if served by either a community water or sewage disposal system.

3. Ten thousand (10,000) square feet if served by individual water well and septic tank.

9-3.6.2.2 Setback Requirements

Minimum setback for the manufactured home within a lot shall be:

1. Side yard of ten (10) feet.
2. Rear yard of twenty (20) feet.
3. Front yard of twenty (20) feet.

9-3.6.3 Other Standards

a. A mobile home shall not be occupied by more than one (1) family.

b. If the park has a community water system and/or a community sewage disposal system, other than a municipal system, it/they shall be approved by the Carteret County Board of Health. Those containing fourteen (14) or more stalls shall be subject to the State Health Department.

c. A plot plan shall be submitted for Planning Board approval showing location and dimensions of stalls, parking, drives, playgrounds and other

improvements. Approval or disapproval shall be granted within sixty (60) days from the initial submission to the Board and the applicant so notified.

9-3.6.4 Signs.

The general provisions of Article XIV of this Ordinance shall apply.

a. Identification Signs. One (1) identification sign shall be permitted for each lot. The sign shall not exceed an area of two (2) square feet, shall not exceed a height of four (4) feet above the surface of the street, shall be attached directly to a building, fence, standard, or mail box, and shall be unlighted or can be provided with indirect illumination.

1. Each dwelling unit shall be provided a three (3) inch minimum size house number installed in a prominent location in the vicinity of the main entrance visible to the main street.

2. Every mobile home park shall provide at or near the entrance to the park an illuminated directory including a map showing the location of all lots and streets with street names.

b. Park Identification Signs.

1. The aggregate sign area for any park shall not exceed thirty two (32) square feet.

2. One (1) identification sign shall be permitted for each park. The sign may be attached flat against a principal building. It shall not project above the eaves of the roof or the top of the parapet or may be freestanding. It shall not be located within ten (10) feet of any public right-of-way and shall not exceed a height of ten (10) feet above the surface of the street. It shall be located within an area landscaped pursuant to approved plans.

9-3.7 Lodges.

A lodge may be permitted in an R district subject to the requirements of the district and provided that:

a. All new sites shall be no less than two (2) acres in size; and

b. The structures shall have minimum side and rear yards of fifty (50) feet and a front yard of at least twenty-five (25) feet greater than that required for single-family residences within the district; and

c. Provisions for food, refreshment, and entertainment for club members and their guests may be allowed in conjunction with such use if the Board of Adjustment determines that said provisions will not constitute a nuisance.

9-3.8 Public Utility Buildings and Uses

a. Public or private utility buildings or facilities that may create excessive noise, odor, smoke, dust, or any other objectionable nuisance in the opinion of the Zoning Administrator shall be subject to the requirements of obtaining a Special Use Permit. the Board of Adjustment may grant a permit, if it is determined to be in the public interest. the Board may require additional requirements on the permit to mitigate any nuisance(s).

b. Public utility buildings and uses such as sewage lift station, electrical sub-stations, etc., which do not create excessive noise, odor, smoke, dust, and which do not possess other objectionable characteristics which might be detrimental to surrounding property or to other uses permitted in the district may be permitted as a right in any district. Public buildings and uses in this case shall not be construed to include post offices, armories, schools, churches, etc.

c. The design of buildings, structures and facilities on the site should conform as closely as possible to the character of the area or neighborhood.

d. Adequate fencing or comparable safety devices must be installed and maintained in order to make the facility inaccessible to the public.

e. Underground sewage lift stations, small cabinet mounted telephone, TV cable amplifiers, switching equipment, etc., are not construed to require a Special Use permit and are permitted uses.

9-3.9 Schools

Schools may be located in an R district subject to the requirements of the district and provided that:

a. Off-street parking requirements in this Ordinance be met; and

b. The minimum site size for an elementary school shall be ten (10) acres, for a junior high school shall be twenty (20) acres and for a senior high school shall be thirty (30) acres plus one (1) acre for each one hundred (100) students.

9-3.10 Landing Strips for Aircraft, and Heliports.

A Special Use Permit is required for the development of a public airport as defined in North Carolina General Statutes Chapter 63 Aeronautics.

a. When considering approval, the Board of Adjustment shall consider the runway orientation to adjacent uses and may advise the Planning Board and Town Council of the necessity of initiating runway protection zones and any other zoning considerations necessary for the protection of the airport and public from incompatible development encroachment to the airport as provided for in North Carolina General Statutes G.S. 63, Article 4.

b. When a private and/or corporate owned airport or

landing strip is planned along with the development of a subdivision, planned unit development or commercial/industrial development, the aircraft facility shall be considered for approval along with the approval process with the planned development or subdivision where appropriate.

c. When the facility in (b) above is being considered, the Planning Board and/or Town Council shall have the authority to approve, disapprove or approve conditionally.

NOTE

Runways and facilities will be so oriented that aircraft takeoff and landing shall not, in the opinion of the council, constitute a nuisance to neighboring uses.

d. Commercial or noncommercial helicopter uses may be housed and operate as permitted accessory uses in all non residential districts.

e. Noncommercial helicopter and aircraft may be housed and operate as permitted uses in all districts

9-3.11 Drive-in Theaters

Drive in theaters shall provide ingress and egress so designed as to minimize traffic congestion, shall be so screened from an R district or dwelling that any noise shall not disturb residents or prospective residents. Lighted signs and other lights maintained only in a way as not to disturb neighboring residents and shall be so designed that the screen be set back from and shall not be clearly visible from any street or highway.

9-3.12 Family Care Home

(Refer to NCGS 168-22 for authority) A family care home shall be deemed a residential use of property for all zoning purposes and shall be a permissible use in all residential districts. When any proposed family care home will be located within one-half mile

radius of an existing family care home, then the proposed family care home will require favorable consideration for a Special Use Permit.

9-3.13 Land Application of Sewage Affluent.

The commercial application of affluent from waste water treatment plants such as pre-treated water or the depositing of sludge from septic tanks or treatment plants shall only be permitted by favorable consideration of a Special Use Permit. In addition to requirements and controls from county, state or federal agencies the Town may place additional requirements to mitigate vehicle traffic, noise, odors or any other perceived health hazard.

9-3.14 Mining, Borrow Pits.

Each application shall include the following information in addition to the general information required by this Ordinance:

- a. A boundary survey of the subject property, together with the proposed location of the limits of excavation;
- b. The means of vehicle access to the proposed excavation;
- c. The number of cubic yards to be excavated;
- d. The areas proposed for the storage of overburden and other spoil during the process of excavation;
- e. The proposed date on which excavation will commence, the proposed date on which the excavation will be completed and the proposed date that all required restoration measures are to be completed;
- f. The location of all haul roads leading to public streets and highways within the area, and the

location of all service roads on site;

g. A statement listing the public streets and highways to be used as haul routes;

h. A plan showing the proposed use of the property once excavation has been completed, including the location of proposed lots, streets, structures, and other features;

i. A plan for filling of the borrow pit, if this is intended, once excavation has been completed. No filling of the borrow pit will be allowed unless plans for the filling have been approved by the Town Council as part of or as an amendment to the special use permit application, and until the Town engineer has issued a fill permit for such activity.

9-3.14.1 Special Requirements

- a. Undrained pockets and stagnant pools from surface drainage shall be sprayed in accordance with requirements of the state board of health to eliminate breeding places for mosquitoes and other insects.
- b. Off-street parking areas adequate for all employees' vehicles and trucks shall be provided.
- c. The edge of the area to be excavated shall be located at least one hundred (100) feet from all exterior property lines. The setback area shall not be used for any purpose during the period of excavation, including overburden and spoil storage, except the setback area may be used for access roads. Exterior limits of all work shall be monumented with iron markers no less than five (5) feet above surface of earth.
- d. Access roads to any excavation where hauling is being conducted shall be maintained in a dust free manner. All access roads shall be constructed so as

to intersect as nearly as possible at right angles with public roads and highways and no access road shall intersect any public road at any angle of less than sixty (60) degrees.

e. Operating hours of excavation may be restricted to between 7:00 a.m. and 7:00 p.m. and Sunday operations may be prohibited

f. All construction buildings used for the production and processing of excavated material shall be constructed and maintained as required by the building code.

g. Existing trees and ground cover along public street frontage shall be preserved and maintained, and replaced during the period of excavation if the Zoning Administrator deems it necessary.

h. No excavation on the site shall commence until an excavation permit has been received from the Zoning Administrator and all requirements of this code have been complied with.

9-3.14.2 Factors relating to approval.

Before issuing any special use permit for the excavation or fill of a borrow pit, the Board shall give due consideration to the following factors:

a. Effect of the proposal upon groundwater supply and drainage in the area;

b. Effect of the proposal upon the Town streets in the area., including but not limited to the factor of traffic safety;

c. Impact from noise, dust, odor or other nuisance upon surrounding properties;

d. Effect of the proposal as a potential health or safety hazard.

9-4 Adult Entertainment Establishments

9-4.1 Anti-skid Row Regulations.

The purpose of this section is to provide reasonable regulations to prevent the adverse effect of the concentration or clustering of certain uses of real property, specifically adult entertainment establishments. Such uses have serious objectionable characteristics when several of them are located in close proximity to each other. Such concentration tends to create a "skid row" atmosphere and has a detrimental effect upon the adjacent area. Regulation of the locations of these uses is necessary to ensure that such adverse effects will not contribute to the blight or downgrading of neighborhoods or deter or interfere with the development and operation of other businesses which are needed and desirable in the Town.

9-4.2 Principal Permitted Uses.

a. In addition to the uses permitted in the CH Commercial Highway district, there shall also be allowed subject to the provisions of the following subsections as Special Uses, adult entertainment establishments as defined. In all other districts, adult entertainment establishments are a prohibited use.

b. The regulations set forth in this entire section are intended to be in addition to and not in lieu of any other regulations of this code applicable to any of the adult uses. Unless otherwise specifically approved, the regulations shall not be deemed to repeal or amend any other provisions of this code which are applicable to the adult uses nor be deemed to excuse noncompliance with any such other provisions.

9.4.3 Proximity Restrictions

a. The purpose of this subsection is to prevent the adverse effects of location of certain uses of real property, specifically adult entertainment establishments, in close proximity to one another, or in a district which is in close proximity to and which serves residentially zoned property; or PUD which is designated for residential use; or nursery schools, elementary schools, junior high schools, high schools, churches or public playgrounds. Regulations restricting the location of such uses with reference to residentially zoned property or PUD which is designated for residential use, nursery schools, elementary schools, junior high schools, high schools, churches or public playgrounds are reasonable and necessary for the prevention of said deleterious effects.

b. Notwithstanding anything elsewhere in this Ordinance to the contrary, except in the provisions of subparagraph 9-4.4 of this section, no building, structure or any portion thereof or any portion of a lot or parcel of property in any zoning district, shall be used for an adult entertainment establishment at a location closer than two thousand six hundred forty feet (2640) to any other adult entertainment establishment; or closer than one thousand five hundred feet (1500') to any residentially zoned property, PUD or parcel of property which is designated for residential use, nursery schools, elementary schools, junior high schools, high schools, churches or public playgrounds situated within the zoning jurisdiction of the Town.

9-4.4 Application to Existing Establishments.

a. Any establishment which does not comply solely by reason of its noncompliance with subparagraph 9-4.3 of this section shall comply with all provisions of those sections within five (5) years of the effective date of this section; provided, however, that any

such establishment which intends to in any way alter or change the nature of any such adult entertainment establishment on or after the effective date of this section shall comply with this section prior to such transfer, alteration or change. Any such use which, at the expiration of such period, is not in compliance with the provisions of this section shall become unlawful and is hereby declared to be a public nuisance and shall immediately be discontinued and abated. For the purpose of determining compliance with subparagraph 9-4.3 of this section as to, between, and with respect to, establishments in operation on the effective date of this section, priority between such existing establishments shall be assigned in accordance with the dates upon which said establishments commence such operation, priority being given to the establishment having the earliest of such dates. In the event any disputes arise regarding said date, the applicant shall have the obligation to establish the date of which he commenced operation. All distances referred to in this entire section shall be measured as a radius from the adult entertainment establishment without regard to public streets or sidewalks. The effective date of this section shall also mean the effective date of the extension of the corporate limits and/or the Extraterritorial Jurisdiction.

b. Within thirty (30) days following the effective date of this section, the Zoning Administrator shall compile a list of all known establishments subject to the provisions of this section doing business on its effective date and shall notify such establishments of the date five (5) years from the effective date of the section when any such establishment which does not comply with this section solely by reason of noncompliance with subparagraph 9-4.3 must comply with the provisions of this section.

9-5 Recreational Vehicle Parks

9-5.1 Definitions

a. Camp Site. An area within a recreational park designed for placement of a tent, recreational camper trailer and/or a recreational vehicle.

b. Camper. Recreational Camper Trailer. A trailer drawn especially by an automobile and equipped for use (as while traveling) as a dwelling. The definition does not include Manufactured Homes (Mobile Homes) as defined by State of North Carolina Regulations for Manufactured Homes.

c. Dependent RV, Tent or Recreational Camper Trailer. Does not have self-contained sanitary facilities or holding tanks for gray water or sanitary sewer.

d. Dependent RV Park. One that may cater to both Dependent and Independent RV, Tent or Camper.

e. Dump Station. A place to discharge sewage from a recreational vehicle, but not including a sewer hookup associated with a RV site.

f. Electric Hookup. The Electrical supply to a campsite.

g. Grey Water. The water that is contaminated with soap, grease, etc., normally associated with washing of people, dishes, clothes, etc., and the waste water from cooking.

h. Host. The person designated by the park owner to do park management.

i. Co-Host. The person designated by the park owner to do park management in the absence of the Host.

j. Improved public road. A road that is improved with a minimum of gravel surface and is regularly maintained by the Town or NC DOT.

k. Independent RV or Recreational Camper Trailer.

One that has self contained gray water and sanitary sewer holding tanks and potable water holding tanks.

l. Independent RV or Recreational Camper Park. One that only caters to Independent RV or Recreational Camper Trailers.

m. Owner. The lawful owner and person responsible for the operation and upkeep of the Recreational Park. The Owner may designate some of the park operation and management to a Host.

n. Parking Space. A place to park a motor vehicle.

o. Recreational Park. Land that is divided into rental spaces (with or without utility hookups) under common ownership or management for the purpose of temporarily locating recreational vehicles, recreational camper trailers or tents for recreation purposes.

p. Recreational Camper Trailer. An enclosed box trailer or a "Pop-up-trailer designed to be pulled by a light duty truck or vehicle either with a ball hitch or fifth wheel device with sleeping accommodations and not designed primarily for use as a permanent dwelling.

q. Recreational Vehicle (RV) ("Park Model"). A vehicle which is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is self-propelled or towed by a light duty truck, and is not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, and seasonal use. The basic entities are travel trailer, camping trailer, truck camper, and motor home. Recreational vehicles are not subject to the Manufactured Home Construction and Safety Standards. Further definitions and clarifications are found in "State of North Carolina Regulations for Manufactured

Homes.”

r. RV Site. A campsite within a recreational park specifically designed for placement of a recreational vehicle or recreational camper trailer.

s. Sewer Hookup. A place where sewer can be discharged as it is generated from a recreational vehicle or recreational camper trailer while it is set up in a recreational park.

t. Setback. Setback refers to the distance a campsite or other campground facility is situated next to the campground perimeter property line.

u. Tent Site. A campsite within a recreational park specifically designed for placement of a tent or other non-vehicle sleeping apparatus.

v. Water Hookup. The domestic water supply to a recreational vehicle while it is set up in a RV site.

9-5.2 Procedure

General Procedure and Applicants' Responsibilities. The following general description of the recreational park approval procedures are intended to aid the users of this section and those persons desiring to develop a recreational park in the Newport Zoning Jurisdiction in understanding the basic procedures, sequence of events and responsibilities of the applicant in obtaining final approval of the project.

a. Applicant contacts the Town Planning Department, 200 Howard Blvd., Newport, NC 28570, arranges a pre-submission conference with the Town Planner or Zoning Administrator.

b. The applicant should provide a sketch plan for discussion. The applicant learns what the concerns and recommendations of the local officials are.

c. The applicant completes an application and has a surveyed site plan, landscape plan, storm water plan prepared.

d. The applicant submits the Special Use Permit application along with the filing fee. (See the Fee Schedule)

e. The planning department assists the applicant with the application and makes recommendations as to his interpretation of the process and design standards. The planning department routes the application to any and all other appropriate departments for their comments prior to the Zoning Board of Adjustment (hereinafter "Board") meeting.

f. the Town engineer may need to get involved if there are drainage or environmental issues. The applicant will be charged for any engineering review fees.

g. the Town Planner will arrange for a meeting with the Board. the Town Planner needs the complete application at least 30 days prior to the meeting in order to notify other property owners and give notice to the news media of the proposed development as required by other sections of the zoning ordinance.

h. If the Board approves the site plan, the applicant files it with the Town Planner and begins construction of the park.

i. The developer (owner) must have approved environmental permits in hand and obtain any required building permits (for buildings, electrical etc.), prior to commencing work.

J. Upon completion and approval of construction, the Town Planner and Building Inspector will issue a certificate of occupancy which authorizes the park to open for business.

9-5.3 Application Requirements.

Recreational park applications shall be accompanied by a site plan prepared by an architect, engineer or land surveyor. Each application shall contain, at the minimum, the following information.

- a. The title and location of the proposed park, together with the names, address, and telephone numbers of the record owner(s) of the land and of the applicant, and, if applicable, the name, address and phone numbers of any architect, planner, surveyor, designer or persons responsible for the preparation of the site plan and application and any authorized agent representing the applicant.
- b. The proposed use of the land and buildings.
- c. Site plan drawing to a scale not less than one (1) inch to two (2) hundred feet, which shall show:
 1. The location of all existing and proposed buildings, fences, culverts, bridges, roads and any other structures of significance.
 2. The boundaries of the property to be developed.
 3. All area, if any, to be preserved as buffers or dedicated to a public or private use for open space or public use.
 4. All existing and proposed easements.
 5. The existing and proposed water and sewer lines.
 6. All means of vehicle and pedestrian ingress and egress to and from the site and the size, location and direction of flow of driveways, streets, and roads, to include radii and curvature of proposed routes.
 7. The location and direction of all drainage, streams, rivers, and storm water channels or ponds.

8. If required by the Town engineer or Town Planner any other information that may be pertinent to the design of the site.

d. The existing zoning district of the proposed development and any other zoning district within 300 feet of the site.

e. Fire district in which the site is located.

f. Where needed to enhance aesthetics, insure public safety, and protect neighboring property, the park shall be enclosed by a fence, wall landscape screening, or other designs approved by the administrator which will complement the landscaping and assure compatibility with the adjacent land. In such cases, landscaping plans shall describe the type, height, and location of proposed screens or fences.

g. Filing fees will be established by the Town Council.

9-5.4 Approval Procedure.

Upon receipt of the complete application and site plan, the Zoning Administrator shall assign a case number and, where a special use permit is required from the Board, forward copies to the secretary to the Board who will arrange for the meeting with the Board. Other departments of the Town and outside agencies as applicable will be notified of the proposal and given opportunities for comments. The Board will not ordinarily get involved with detailed design review except for unusual circumstances such as approving variances from the development standards (para 9-5.8). Rather, the Board will approve or disapprove the appropriateness of the neighborhood location, will determine whether the application satisfies the requirements for a special use permit, and impose any other requirements it deems appropriate to protect the neighborhood, adjacent property, safety or any other concern. Upon

Board approval of the application for the special use permit, the Town Planner will review the detailed design and assure that it substantially agrees with the minimum requirements as stated herein, at which time a Certificate of Occupancy will be issued to the operator of the facility.

9-5.5 Compliance.

The development of the recreational park shall conform to the approved special use permit and its conditions and requirements, and the site plan as approved. Any development, use, or density which fails to substantially conform to the special use permit and its conditions and requirements as approved shall constitute a violation of this Ordinance. the Zoning Administrator may approve minor alterations if in his opinion the alterations do not substantially alter the original plan. When the Zoning Administrator determines that the proposed alterations are of a substantial nature, the developer shall submit a new application to be processed in accordance with this Ordinance.

9-5.6 Operation Permit.

When the recreational park has been brought into compliance with the approved plan, the Zoning Administrator shall issue a permit to operate. The permit may be revoked by the Board for any substantial violation of permits during a public meeting of the Board and after the Owner has been given at least 24 hours notice of the pending action. the Board may issue a provisional permit to operate while the owner is exercising due diligence in an effort to come into compliance with any requirements of the Board.

9-5.6.1 Periodic Inspection.

the Zoning Administrator or Building Inspector may make periodic inspections to verify that the park is in

compliance with all original or amended permits. the Zoning Administrator or Building Inspector may make any unannounced inspections as deemed necessary to assure compliance, investigate complaints or investigate suspected undesirable conditions.

9-5.7 Location and General Requirements.

a. General. Recreational parks shall be permitted only where allowed by zoning classification. Variances shall not be given contrary to this section. Parks shall not be permitted in any area found unsuitable for such development because of poor or undesirable drainage, physical topography, soil characteristics, public access, or other features that may be harmful to the public health, safety, and general welfare.

b. Full Time Camping. As a general rule, there will be no full time camping within an RV park except for the host and co-host. The purpose of the host occupant shall be general supervision, to collect money and other duties associated with day to day activities of the park. The maximum stay of any guest or camping equipment shall be fourteen (14) consecutive calendar days. All Camp Sites shall be kept in a clean, uncluttered condition at all times. A period of not less than 5 days shall lapse before the guest RV, Recreational Camper Trailer or Tent can return to the Recreational Park. It shall be the responsibility of the Park Owner or Host to keep records of such activity and present them to the Zoning Administrator, Building Inspector or Law Enforcement Officer on demand.

9-5.8 Development Standards

a. Size. The maximum size of any Recreational Park may be determined by the Board of Adjustment on a case by case basis.

b. Density. Density of the Recreational Park shall not

exceed that which can be accommodated by the site. A minimum of eight (8) percent of the gross site area shall be set aside and/or developed as common use areas for open or enclosed recreational facilities. (Common areas do not include campsites, roads, buildings, and permanent structures).

c. Layout. The general layout and requirements shall be in accordance with the following:

1. Setbacks shall observe the applicable zoning district requirements pertaining to setbacks from property lines and public roads. Additional setbacks and fencing may be required where a landscaped buffer is to protect public safety, neighboring property or aesthetics.

2. Areas designated as Camp Sites shall be separated from adjoining Camp Sites or interior park streets by a minimum of 10 feet.

3. Each Camp Site shall be provided with a camp fire containment system, charcoal or wood burning grill, a metal or wood type lantern hook pole and a durable picnic table with seating for a minimum of six persons.

4. Each Camp Site shall be large enough to accommodate the RV or Recreational Camper Trailer with its awning extended and to provide at least 16 linear feet open area to the adjacent Camp Site

d. Road Systems. The road system shall be designed to meet the requirements of the traveling public to include the following:

1. Recreational parks shall have access to an improved public road.

2. All park roads, access driveways, parking spaces, and Camp Sites shall have an adequate base,

grading, and surface to facilitate drainage and to reduce dust. Cinder, gravel, or a comparable non-dust contributing material shall be used to provide an all weather surface.

3. One way interior roads shall not be less than 12 feet wide. Two way interior roads shall not be less than 22 feet wide.

4. Turns shall be adequately designed for recreational traffic.

5. RV sites shall be designed to allow easy parking and access of RVs.

e. Parking. Parking spaces are necessary and required in addition to Camp Sites. The following shall apply:

1. Off road parking spaces shall be a minimum 10 feet by 20 feet in size.

2. Each Camp Site shall have a minimum of one off-road parking space.

3. The Recreational Park and its associated office shall have a minimum of the following additional off road parking area:

- (a) 800 square feet for registration
- (b) one space per employee.

f. Sewer Disposal and Water Supply. All full service Recreational Parks shall discharge sewer into a sewer system and have a public water system both approved by the Town and/or the County Environmental Health Department as appropriate.

1. Each Recreational Park which has twenty-five (25) or more RV sites shall have adequate and conveniently located sewer dumping stations designed and developed to standards established by the Town or County Environmental Health Department as appropriate.

2. For Recreational Parks catering to tent camping and/or dependent RVs, utility buildings providing separate toilets and showers for each sex shall be provided at convenient intervals throughout the park. The use of any thing other than conventional toilet facilities, such as privies, shall be approved by the Board and the County Environmental Health Department. Where RV sites are not provided with individual sewer connections, utility (Bath Houses) shall be provided within eight hundred (800) feet of those spaces.

3. Bath House facilities shall be provided in accordance with the North Carolina Building Code as amended. In the absence of a minimum facility requirement in the Code, the minimum number of facilities shall be provided in accordance with the following chart:

<u>Number of sites</u>	<u>Toilets</u>	
	<u>Men</u>	<u>Women</u>
1-30	2	2
31-45	2	3
46-60	2	4
61-80	3	5
81-100	3	6

	<u>Urinals</u>	<u>Sinks</u>	
		<u>Men</u>	<u>Women</u>
1-45	1	3	3
46-60	2	3	3
61-80	2	4	4
81-100	3	4	4

	<u>Shower</u>	
	<u>Men</u>	<u>Women</u>
1-30	2	2
31-45	3	3

46-60	4	4
61-80	6	6
81-100	7	7

4. Bath Houses may be disbursed throughout the park in order to satisfy the 800-foot distance from Camp Sites and the total numbers of facilities within the house may be divided among the houses so long as the ratios of persons to facilities are maintained. However, each Bath House must have at least one (1) male and one (1) female accessible facility separated from each other.

5. The Bath Houses shall be constructed as an emergency shelter for severe weather such as thunderstorms and tornadoes. They can be constructed out of heavy timber or re-enforced masonry. The total net open floor area for persons to congregate shall be a minimum of 500 Sq. Ft. the Town Building Inspector may require the Bath House to be designed by an architect or engineer when he is unable to ascertain that the proposed building design meets these standards. When such a facility is constructed, a clear and legible sign shall be posted in a conspicuous place to advise the camping public of the place of refuge.

6. Handicap facilities will be designed and provided in accordance with NC Building Code.

7. Areas of the park catering only to independent self-contained units shall provide for each sex, at least one toilet, hand washing sink and shower.

8. Water service risers shall be protected from freezing and shall not be located in such a manner as to be contaminated by sewage. Sewer risers shall be capped when not in use and be so constructed so as to prevent entrance of storm water.

g. Solid Waste. The storage, collection and disposal

of solid waste in the Recreational Park shall be the responsibility of the park owner and conform with the minimum standards set forth by the Town of Newport and the County Environmental Health Department. Approved solid waste containers shall be located not more than two hundred (200) feet from any Camp Site.

h. Electrical and other hookups. Electrical hookups may be provided to each Camp Site. Other services, such as T.V. cable, may be permitted and installed in accordance with the Building Code.

i. Miscellaneous General. The entire Recreational Park shall be designed and laid out as a planned unit to ensure continuity. These standards are not intended to be all inclusive, but are minimum requirements. Alternate designs are encouraged to meet the intent of well organized Recreational Parks.

9-5.9 Rules.

a. No domestic animals or pets shall be allowed to run at large.

b. The Owner or a responsible Host or Co-Host shall be in charge at all times. The Owner or Host's phone number and any other emergency phone numbers shall be posted.

c. In any park containing 50 or more Camp Sites, a Host or Co-Host shall be available on-site at all times that the park is occupied and shall have the authority to mitigate emergency situations. For parks of less than 50 Camp Sites that do not have an on-site full-time Host, there shall be installed a working emergency phone that will dial 911. The phone shall be installed in an easily accessible area.

d. There shall be a 10:00pm to 6:00am noise curfew within the park. The noise curfew is intended to deter and allow the Host to mitigate loud music, parties,

noisy generators and the like.

9-6 Tall Structures, General

Tall Structures are defined as but not limited to: Steeples, Towers, Smoke Chimneys, Wind activated Devices, Wind Energy Facilities, High Rise Buildings, etc., that exceed 70 feet above grade.

9-6.1 Wind Energy Facilities (Special Use)

a. No person shall undertake construction, operation, or expansion activities associated with a Wind Energy Facility, hereafter referred to as (WEF), without first obtaining a Special Use Permit from the Town.

b. Before applying to the Town of Newport for a permit pertaining to a WEF, the applicant shall submit an application and obtain a permit in accordance with North Carolina General Statutes, Article 21C, Chapter 143 as amended. The requirements herein are in addition to Article 21C of Chapter 143.

c. The applicant to the Town shall include a copy of all permit application information, reports and studies, required in Section 9-6.1b as a part of the WEF application to the Town of Newport.

NOTE

A Small System WEF (not to exceed 70 feet in height) is considered to be an accessory use and is not regulated under this Section. Small Systems may be subject to other sections of this ordinance. A Small System is one further described as one where the name plate electrical rating does not exceed 25 kilowatts (kw) per turbine. Only one (1) such unit shall be installed on a parcel of land associated with a house, or other establishment that does not have

its primary purpose the production of electricity for, or selling electricity back to, the public grid in order to be to be considered an Accessory Use, Small System.

d. Location of WEF.

1. All WEFs covered under this part shall be allowed only within a land use zone permitting the facility listed in Article VII of this Ordinance.

2. A Tall Structure temporarily erected solely for the purpose of scientific data collection at the proposed site will not require approval of a WEF application. A Building Permit shall be required for such structure. Each temporary structure shall comply with the dimensional requirements of this Article and any other applicable ordinances, and if it exceeds 200 feet above grade, shall comply with FAA height requirements. A copy of the FAA determination report as a result of filing FAA Form 7460-1, Notice of proposed Construction or Alteration of an object that may affect a navigable airspace shall be submitted with a Building Permit application for the structure. The temporary structure may not display any advertising signs, may not be illuminated except as required by the FAA or Department of Defense, and must be removed no later than two (2) years of the date of its certificate of completion.



Example: Utility -Scale Wind Energy Facility (WEF)

9-6.1(a) Application and Administrative Requirements

a. Pre-application Requirements:

1. Before a WEF Building Permit may be submitted, the Applicant must first consult with the Planning Department and review all requirements of the project for consistency with this ordinance.

2. The Applicant shall first submit a "Sketch Plan" to illustrate and discuss the proposed WEF.

3. The Planning Department may, with authority of Town Manager, seek expert consultation and assistance with reviewing the permit application.

b. Formal Application: The applicant, Owner and all successors shall be responsible for full compliance with the provisions contained within the Special Use Permit issued herein.

1. Any application submitted hereunder shall contain appropriate confirmation of compliance with all federal, state and local statutes, rules and ordinances, and shall contain all other permits

required to be issued by any other governmental body having jurisdiction thereof. Any application submitted hereunder shall be forwarded to the Commanding Officer, Marine Corps Air Station Cherry Point, in order to provide for review and comment concerning any possible impacts on the operations and mission of Marine Corps Air Station Cherry Point, and no application submitted shall be deemed complete until such time as said review is completed and such written comments are received.

2. Should there be a conflict with other regulations or requirements as amended from time to time, the stricter regulation will apply.

c. Application and Administrative Fees:

When the Planning Department determines that the requirements herein are satisfied, The applicant may submit the formal application along with all financial requirements and fees.

The Planning Director or designee shall submit the required documents to the Chairman of the Zoning Board of Adjustment so that meetings can be scheduled for their review and consideration.

1. The applicant shall pay for any and all cost associated with the evaluation of the plans for the proposed facility. See paragraph d. below.

2. Special Use Permit, Plans review Fee one thousand (\$1,000.00) dollars (Non Refundable).

3. Building Permits Fees for Construction of any and all buildings, structures including the WEF is three (\$3.00) per one thousand (\$1000) dollars Construction Cost.

d. Escrow Account.

1. The Applicant shall establish an Escrow Account

under the following procedures:

2. This Escrow Account will be setup by the Applicant. This Escrow Account will be at a financial institution approved by the Town, solely in the name of the Town, to be managed by the Town Treasurer. The Applicant will make an initial deposit of fifty thousand dollars (\$50,000). Failure to provide notice and proof of deposit to the Town Escrow Account shall cause the Application to be deemed insufficient.

3. Any interest accruing to the Escrow Account shall stay with the account and be considered new principle.

4. If the WEF Application is denied, all Escrow Account funds will be returned to the Applicant, less related expenses incurred by the Town. The money will be returned, along with a statement as to these costs, within thirty (30) days of the Application being formally denied.

5. This Escrow Account will be maintained during the life of the WEF by the Applicant/Owner/Operator. The Applicant/Owner/Operator will replenish any Escrow funds used by the Town within fourteen (14) days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the Escrow Account at fifty thousand (\$50,000) dollars, shall be cause for revocation (or denial of renewal) of the WEF Conditional Use Permit.

6. The Applicant shall reimburse the Town for all incurred oversight costs related to the WEF. These expenses include (but are not limited to) amounts required for Building Permits and through overseeing Decommissioning including but limited to, e.g. administration, engineering, expert health and wildlife impact evaluations, handling complaints, etc. This reimbursement will be from the Escrow Account.

7. If the WEF Facility is decommissioned to the satisfaction of the Town, all Escrow funds will be returned to the applicant/Owner/Operator, less related expenses incurred by the Town. The money will be returned, along with a statement as to these costs, within thirty (30) days of the Decommissioning process being completed.

e. The Planning Director or designee shall review the application with the applicant for requirements and information required in this Ordinance. The review and Special Use Permit process shall proceed as provided in Article I, Section 1-14 of this Article once the application is found to be complete.

f. Zoning Board of Adjustment actions:

1. After receipt of the Permit Application shall set a date and time for a Public Hearing as set forth in Article I of this Ordinance.

2. At the conclusion of the Public Hearing on the matter, The Board of Adjustment may:

a. defer deliberation or consideration of the matter until another meeting to seek further guidance, legal council, etc. or,

b. deliberate and/or consider the matter at that meeting.

3. The Board shall review the application with the applicant regards to compliance with zoning regulations, compatibility with the neighborhood, the health, safety, economic aspect and environmental impact on nearby areas. The Board after making finding(s) of fact may;

(a) deny the application or

(b) approve the application

(c) approve the application with modifications and/or make any other determination that would be in the best interest of the Town.

9-6.1(b) Minimum Setback Requirements

a. Wind Energy Facility Setback:

WEF shall be setback from non participating property lines, Federal Highway, State Highway and/or Public Road for at least five thousand feet (5,000) and have a maximum height above highest adjacent grade of two hundred seventy five feet (275).

NOTE

1. Setback shall be measured from its outermost extension (whether blade tip, nacelle/turbine housing, or tower/pole edge) that is nearest the subject property line adjacent to private property, public or private right of way. There is a setback of one thousand feet (1,000) from the Croatan National Forest, so as to minimize the adverse effect of catastrophic failure from debris and fire hazard to the Forest.

2. No portion of any wind turbine blade shall be closer than 25 feet from any part of the ground that surrounds any WEF.

b. NC Building Code Requirements:

All Structures within and associated with the WEF shall be designed and constructed to comply with the North Carolina Building Code(s) to include certification of compliance by a Registered Professional Engineer that the Facility is designed and will be installed to meet the minimum wind design of 130 miles per hour.

9-6.1(c) Local Environmental Issues.

NOTE

Environmental issues associated with Shadow Flicker, Blade Glint, catastrophic tower, turbine or blade failure or fire are perceived not to be a significant concern so long as the setback requirements required herein are adhered to.

a. Noise: No WEF or its generators, equipment, or apparatus shall produce noise above thirty-five (35dba) decibels for more than five (5) times within seven (7) consecutive days as measured at any property line of non-participating land owners, the applicant and/or owner shall shut down the WEF within one (1) business day of being informed to do so by the Town Planning Director or designee. The facility shall remain shut down until it can be demonstrated to the satisfaction of the Planning Director or designee that the facility can be operated so as to not exceed thirty-five (35dba) decibels as measured at any non participating property line.

b. Decommissioning or abandonment: Separate and apart from the Escrow account requirement herein, The owner/operator or their successors shall provide Surety for the guarantee of decommissioning, removal of the facilities and restoring the property back to an acceptable condition after removal.

1. Should the Owner/Operator decide to decommission any turbine, they shall send written notification to the Town, within thirty days of making such a decision.

2. If any turbine does not produce electricity for 180 consecutive days, said turbine is automatically considered to be decommissioned. It is the responsibility of the Owner/Operator to inform the Town when such a situation arises. The Owner/Operator may appeal that determination to the Board of Adjustment.

3. Absent any waiver by the Board of Adjustment, the

decommissioning process will start for any decommissioned turbine, within 120 days of it being decommissioned.

4. Any violation of the decommissioning procedure for any individual turbine will result in the loss of the Special Use Permit for the WEF, until the Board of Adjustment determines that the Owner/Operator is in compliance.

c. Surety For Decommissioning of WEFs:

1. The applicant shall place with the Town of Newport an acceptable letter-of-credit, bond, or other form of security that is sufficient to cover the cost of removal and restoration at the end of the WEF's useful life.

2. Such surety shall be at least five hundred thousand dollars (\$500,000) for each wind turbine and seventy five thousand dollars (\$75,000) for each associated building.

3. The surety shall be used by the Town to assure faithful performance of the terms and conditions of the permit, as well as to serve as a surety to prevent the taxpayers from bearing the cost of removal and restoration in the event of the abandonment or cessation of use.

4. The full amount of surety shall remain in full force and effect until any and all necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the WEF, as determined by the Newport Planning Department.

9-6.1(d) Liability Insurance

The holder of a permit for a Large or Utility WEF shall secure and maintain for the duration of the permit, public liability insurance, as follows:

1. Commercial General Liability covering personal injuries, death and property damage with one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate, which shall specifically include the Town and its officers, councils, employees, committee members, attorneys, agents and consultants as additional named insureds. The Developer shall indemnify the Town against any claims made against it arising from the operation, maintenance and/or decommissioning of the WEF.

2. The Insurance Policies shall be issued by an agent or representative of an insurance company licensed to do business in the State of North Carolina and with a Best's rating of "A".

- a. The insurance policies shall contain an endorsement obligating the Insurance Company to furnish the Town with at least 30 day's prior written notice in advance of a cancellation.
- b. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of insurance that such policies are to renew or replace.
- c. No more than 15 days after the grant of the permit and before construction is initiated, the Permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

9-6.1(e) Real Property Value Protection Requirement

a. The WEF Owner (Applicant) or their successor shall assure The Town of Newport that there will be no loss in real property value due to the WEF.

b. To legally support this claim, the Applicant shall hereby consent to this Real Property Value Protection Agreement ("Agreement"). This Agreement provides assurance to nonparticipating real property owners near the WEF (not lessors to the Applicant), that they have some protections from real property values losses due to the WEF.

c. Applicant guarantees that the property values of all real property partially or fully within two (2) miles of the WEF, will not be adversely affected by the WEF. The two (2) miles shall be within the Newport Zoning and Planning Jurisdiction. Any real property owner(s) included in that area who believe that their property may have been devalued due to the WEF, may elect to exercise the following option:

d. All appraiser costs are paid by the Applicant, from the Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction in value to the real property ("Diminution Value"), if any, caused by the proximity to the WEF. This shall be determined by calculating the difference between the current fair market value of the real property (assuming no WEF was proposed or constructed), and the fair market value at the time of exercising this option:

1. If the higher of the Diminution Valuations submitted is equal to or less than twenty five percent (25%) more than the other, the two values shall be averaged ("Average Diminution Value": ADV).

2. If one of the Diminution Valuations submitted is more than twenty five percent (25%) higher than the other, then the two appraisers will select a third licensed appraiser who shall present to Applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV.

3. In either case, the property owner may elect to receive payment from the WEF Owner of the ADV. Applicant is required to make this payment within sixty (60) days of receiving said written election from property owner, to have such payment made.

e. Other Agreement Conditions:

1. If a property owner wants to exercise this option, they must do so within ten (10) years of the WEF receiving final approval from the town.

2. A property owner may elect to exercise this option only once.

3. The applicant and the property owner may accept mutually agreeable modifications of this Agreement, however, the Applicant is not allowed to put other conditions on a financial settlement (e.g. confidentiality). If the property owner accepts some payment for property value loss, based on an alternative method, then that is considered an exercise of this option.

4. This Agreement applies to the property owner of record as of the first notification of intent to apply for a WEF permit by the Applicant to DENR, as required by HB-484, is not transferable to subsequent property owners.

5. The property owner of record as of the first notification of intent to apply for a WEF permit by the Applicant to DENR, as required by HB-484, must reasonably maintain the property from that time, until they choose to elect this option.

6. The property owner must permit access to the property by the appraisers, as needed to perform the appraisals.

7. The property owner must inform the appraisers of all known defects of the property as may be required by law, as well as all consequential modifications or

changes to the property subsequent to the first notification of intent to apply for a WEF permit by the Applicant to DENR, as required by HB-484.

8. This Agreement will be guaranteed by the Applicant (and all its successors and assigns), for ten (10) years following the WEF receiving final approval from the Town, by providing a bond (or other surety), in an amount determined to be acceptable by the Town.

9. Payment by the Applicant (per 9-6.1(e)d.3.) not made within sixty (60) days will accrue an interest penalty. This will be twelve (12) percent annually, from the date of the written election from property owner.

10. For any litigation regarding this matter, all reasonable legal fees and court costs will be paid by the Applicant.

9-6.1(f) Security and Safety of WEFs.

a. All WEFs shall be located, fenced or otherwise secured so as to prevent unauthorized access.

b. WEF shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

c. The WEF shall be made accessible to the Newport Fire and Rescue Squad by providing an entry key box or other suitable emergency entry system on a 24-7 basis. The emergency entry system shall be approved by the Newport Fire Official.

d. Whenever construction or maintenance is being conducted at the WEF, the owner/operator shall assure that properly trained and equipped personnel are on site to perform rescue and emergency aid to anyone working within the facility.

e. In order for the Newport Fire and Rescue Squad to provide emergency aid for rescue and/or fire to the WEF, the owner/operator shall offer semi-annual training to the Fire and Rescue Squad at no cost to the Town. If any special equipment is needed for the Fire and Rescue Squad to provide reasonable service to the WEF, the owner/operator of the WEF shall provide such equipment and training for its use at no cost to the Town. The Newport Fire Chief may elect to coordinate with the Carteret County Emergency Manager to have other Fire and Rescue units join in with the training.

9-6.1(g) Reservation of Authority to Inspect WEFs.

In order to verify that the holder of a permit for a WEF and any and all subsequent Owner's or Operator's, have placed and constructed such facility in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder, Owners, Operators construction, modification, and maintenance of such facilities, including all other Owner's, Operator's structures and facilities constructed or located on the site.

9-7 Wireless Telecommunications Services (WTS) Development Requirements.

Wireless Telecommunication Services Development shall be subject to the requirements of this Section.

9-7.1 Board of Adjustment Review/Approval.

Except as otherwise provided for as permitted uses in other sections of this Ordinance, WTS Development shall be subject to Board of Adjustment Review/Approval. Site plans shall be submitted in accordance with Board of Adjustment rules.

9-7.2 Development Standard

a. As a general rule, there is no height limit for towers unless the construction falls within the federal Aviation Administration (FAA) CFR Title 14 Part 77 obstructions to Navigation rules which is briefly stated herein.

b. The following circumstances shall be filed with the FAA, Form 7460-1, Notice of Proposed Construction or Alteration at least 45 days prior to the proposed construction or alteration and prior to filing for a Building Permit or Special Use Permit with the Town. The applicant should refer to the full FAA CFR Title 14 Part 77 for any other requirements prior to the application submittal:

1. Any proposed construction or alteration that is more than 200 ft. AGL at its site:

2. Any construction or alteration that exceeds an imaginary surface extending outward and upward at any of the following slopes:

(a) 100 to 1 for a horizontal distance of 20,000 ft. from the nearest point of the nearest runway of each airport in paragraph b. of this section with its longest runway more than 3,200 ft. in actual length, excluding heliports.

(b) 50 to 1 for a horizontal distance of 10,000 ft. from the nearest point of the nearest runway of each airport described in paragraph b. of this section with its longest runway no more than 3,200 ft. in actual length, excluding heliports.

(c) 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area of each heliport described in paragraph b. of this section.

a. Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward 17 feet from an interstate highway that is part of the national System of Military and Interstate Highways where over crossings are designed for a minimum of 17 feet vehicle distance, 15 feet from any other public roadway, 10 feet or the height of the highest mobile object that would normally transverse the road, whichever is greater, for a private road 23 feet from a railroad, and for a waterway or other traverse way not previously mentioned, any amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of paragraph 1. or 2. of this section.

b. Any construction or alteration on any of the following airports or heliports:

(1) A public use airport listed in the airport/facility Directory;

(2) A military airport under construction, or an airport under construction that will be available for public use;

(3) An airport operated by a Federal agency or the DOD.

(4) An airport or heliport with at least one FAA-approved instrument approach procedure.

c. You do not need to file notice for construction or alteration of:

(1) Any object that will be shielded by existing structures of a permanent and substantial nature or by natural terrain or topographic features of equal or greater height, and will be located in congested area of a city, town, or settlement where the shielded structure will not adversely affect safety in air navigation;

(2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device meeting FAA-approved siting criteria or an appropriate military service siting criteria on military airports, the location and height of which are fixed by its functional purpose;

(3) Any construction or alteration for which is required by any other FAA regulation.

(4) Any antenna structure of 20 feet or less in height, except one that would increase the height of another antenna structure.

d. The Inspections Department or Board of Adjustment as appropriate, after reviewing comments from the FAA and the officials of any affected airport, may review and act on the application for the building permit.

e. If any adverse comments are received from a Federal, State or local agency the permit application shall be denied or modified as appropriate to the extent necessary of mitigating the adverse condition.

9-7.2.1 Setbacks

All new developed pursuant to Section 9-7.2 shall observe the following setbacks:

a. All WTS towers shall meet the minimum principal building setback for the district in which located.

b. All accessory equipment structures shall meet the accessory building and structures setback requirements of the district in which located.

c. Where the WTS development adjoins a residential district, the tower and other structures shall honor the setback requirement of the adjacent residential district.

d. For towers that have design collapse points, setbacks shall be required for the collapse zone of the structure.

9-7.2.2 Fencing.

WTS development may be required to have an eight (8) foot fence capable of preventing unauthorized entry.

9-7.2.3 Buffer and Screening

WTS development shall comply with the Buffer and Screening Requirement of Article XII.

9-7.2.4 Lights

No wireless telecommunication tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the Federal Aviation Administration and/or the Federal Communications Commission. This restriction against lights shall not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar uses.

9-7.2.5 Signs and Advertisement

The use of any portion of a tower for signs or advertising, other than required signs, shall be prohibited.

9-7.2.6 Removal of Abandoned or Damaged Towers

a. Any WTS tower and/or antenna including those existing on the effective date of this Ordinance that is not used for one (1) year shall be deemed

abandoned and the property owner shall remove the tower and/or antennae. If the property owner fails to remove the tower, system and/or antenna after the time prescribed, it may be removed by the Town in accordance with the N.C. General Statutes dealing with abandoned structures. The costs of such removal shall be collected as prescribed by the N.C. Statutes dealing with abandoned structures. Damaged towers or towers otherwise deemed by the Building Inspector to be dangerous or hazardous to persons or property shall be immediately repaired or removed.

b. The Board of Adjustment may extend the time for removal where the owner can show cause not to declare the structure abandoned. Such as, if the owner is actively seeking additional customers or systems to be installed at the site.

9-7.3 Exceptions to Board of Adjustment Review/Approval. The following WTS development shall not require Board of Adjustment consideration. Development standards as depicted in 9-7.2 shall apply where appropriate. Review/Approval shall be subject to the administrative review and approval by the Zoning Administrator and staff:

a. WTS antenna co-located on an existing WTS tower.

b. WTS antenna located on an existing utility pole, transmission tower, water tank, utility power poles or similar utility structure whether or not they serve a different purpose within all zoning districts.

c. WTS antenna, towers and/or facilities located in an RO, CD, CH, LI or IW Zoning District.

d. North Carolina General Statute 160A-383.3 requires reasonable accommodation of amateur radio antenna. The following wireless communication activities are exempt from zoning approval: Amateur

radio, Citizens Band (CB), Mars Radio, Civil Air Patrol towers and antennas except those that fall under the requirements of Section 9-7.2 Development Standards.

9-8 Outdoor Entertainment Development Standards. These provisions shall apply to long term or permanent facilities.

9-8.1 Miniature Golf Course Development Standards.

a. Purpose. The purpose of these regulations is to provide for safe and orderly development of miniature golf courses in the Town.

b. Driveways. The location and design of driveways shall be reviewed and approved by the Planning Department to assure their safety.

c. Setbacks. All waiting and play areas shall be setback a minimum distance of 40 feet from the principal street.

d. Lighting. No lighting shall be permitted to shine on any adjacent property or street. A lighting plan prepared by an engineer or electrical utility company shall be submitted to the planning department for review and approval.

e. Loudspeakers. If located within 100 feet of a residential zone, must be off after 10:00pm.

9-8.2 Amusement Parks Rides, and Theme Parks.

Amusement parks and rides not limited to the following: Go cart, and similar small scale vehicles and racing. Water Slides.

a. Town staff review and recommendations will be considered by the Board of Adjustment in their determination and approval or dis-approval of the project.

b. In granting a Special Use Permit, the Board of Adjustment may impose such reasonable and additional stipulations, conditions or safeguards and may consider items in Section 9-8.1 as, in their judgment, will enhance the siting of the proposed project.

c. The special use will comply with all other applicable development standards found else where in the zoning ordinance.

d. The special use will be in substantial harmony with the area in which it is to be located.

e. The special use will not be injurious to adjoining property.

f. The special use will contribute to the economic vitality and promote the general welfare of the community.

g. The special use will not discourage or negate the use of surrounding property for use(s) permitted by right.

9-8.3 Large Scale Recreational Facilities. Large Scale Recreation facilities may consist of but are not limited to Theme Parks, Vehicle Race Tracks, Arenas, Stadiums and Facilities for Car or Boat Shows and the like. These facilities may be indoors or out of doors.

9-9 Solar Farms Facility, (Special Use).

a. Also known as photovoltaic (PV) panels or solar collectors, hereafter referred to as "SFF", are permitted as a Special Use Permit for systems that generate more than 15 kilowatts of direct current (DC) electrical energy for the primary purpose of supplying the Utility Grid.

NOTE

1. Refer to Article VIII of this ordinance for systems that generate less than 15 kilowatts of electrical energy or is not for the primary purpose of supplying the Utility Power Grid .

2. SFFs or the like that produce hot water, electricity or other energy for no more than one single or two family residential dwellings, business use if considered accessory uses, are not regulated under this Section.

b. The Board of Adjustment, when considering Special Use Permitting shall act favorably only requests for systems allowed as Special Uses within zoning districts permitting such systems in Article VII of this Ordinance.



Example: Solar Farm Facility (SFF)

c. The Applicant, Owner and Successors shall be responsible for full compliance with the provisions of this Section and any other Permit requirements contained within the Special Use Permit issued herein.

d. Application requirements and administrative fees:

1. The applicant shall review the project requirements with the Newport Planning and Inspections Department for compliance with the requirements of this Ordinance.

2. The written application shall at a minimum contain all information required by this Ordinance, along with:

i. Name and address of owner,

ii. Site plan to scale, showing the planned locations of all structures, fencing, gates, vegetative buffering, security lighting and any other detail required.

iii. Payment of the application fee.

3. The applicant shall pay for any and all cost associated with the evaluation of the plans for the proposed facility. See paragraph f. below.

4. Special Use Permit, Plans review Fee \$500.00 (Non Refundable).

5. Building Permits Fees for Construction of any and all buildings, structures including the SFF is \$3.00 per \$1000 Construction Cost.

e. Escrow Account.

1. The Applicant shall establish an Escrow Account under the following procedures:

2. This Escrow Account will be setup by the Applicant at the time of the SFF permit Application. This Escrow Account will be at a financial institution approved by the Town, solely in the name of the Town, to be managed by the Town Treasurer. The Applicant will make an initial deposit of ten thousand dollars (\$10,000). Failure to provide notice and proof of deposit to the Town Escrow Account shall cause

the Application to be deemed insufficient.

3. Any interest accruing to the Escrow Account shall stay with the account and be considered new principle.

4. If the SFF Application is denied, all Escrow Account funds will be returned to the Applicant, less related expenses incurred by the Town. The money will be returned, along with a statement as to these costs, within thirty (30) days of the Application being formally denied.

5. This Escrow Account will be maintained during the life of the SFF by the Applicant/Owner/Operator. The Applicant/Owner/Operator will replenish any Escrow funds used by the Town within fourteen (14) days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the Escrow Account at ten thousand dollars (\$10,000), shall be cause for revocation (or denial of renewal) of the SFF Special Use Permit.

6. The Applicant shall reimburse the Town for all Town incurred costs related to the SFF. These expenses include, but are not limited to, amounts required for Administrative , engineering, expert consulting, handling complaints, Building permits and overseeing Decommissioning. This reimbursement will be from the Escrow Account.

7. If the SFF Facility is decommissioned to the satisfaction of the Town, all Escrow funds will be returned to the applicant/Owner/Operator, less related expenses incurred by the Town. The money will be returned, along with a statement as to these costs, within thirty (30) days of the Decommissioning process being completed.

9-9.1 Development Standards. The following development standards are considered minimum requirements to be considered for approval. The

Board may impose further requirements deemed to be appropriate for the neighborhood or area to be served.

a. All SFF sites shall be fenced around the exterior of the Solar Farm with an opaque or semi opaque fence of earth tone colors which shall be at least 6 feet in height and shall additionally have at least three strands of barbed wire run above such six feet.

b. All fences shall be constructed so as to substantially lessen the likelihood of entry into a Solar Farm by unauthorized individuals.

c. The fencing and barbed wire required herein shall be maintained in good condition. Failure to maintain the fencing and barbed wire required hereunder shall constitute a violation of this ordinance.

d. The fencing and barbed wire requirements herein shall continue notwithstanding the fact that a SFF is no longer operational and/or falls into disuse unless and until the SFF is dismantled and removed from the parcel or parcels of land upon which it was constructed.

9-9.2 Gates, locks and other safety requirements.

a. All gates to fences shall be at least 6 feet high and shall have at least three strands of barbed wire run along the top and be provided with locks which shall remain locked at all times when the SFF is not occupied or monitored by the owner or operator.

b. facilities shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

c. The facilities shall be made accessible to the Newport Fire and Rescue Squad by providing an entry key box or other suitable emergency entry

system on a 24-7 basis. The emergency entry system shall be approved by the Newport Fire Official.

d. Whenever construction or maintenance is being conducted at the SFF, the owner/operator shall assure that properly trained and equipped personnel are on site to perform rescue and emergency aid to anyone working within the facility.

e. In order for the Newport Fire and Rescue Squad to provide emergency aid for rescue and/or fire to the SFF, the owner/operator shall offer semi-annual training to the Fire and Rescue Squad at no cost to the Town. If any special equipment is needed for the Fire and Rescue Squad to provide reasonable service to the SFF, the owner/operator of the SFF shall provide such equipment and training for its use at no cost to the Town. The Newport Fire Chief may elect to coordinate with the Carteret County Emergency Manager to have other Fire and Rescue units join in with the training.

9-9.3 Setback. Every SFF shall be setback at least 50 feet from all nonparticipating property lines and the high water mark of navigable stream.

a. Setbacks shall be measured from the interior of the fencing and gates which surround the perimeter of the equipment and structures.

9-9.4 A continuous evergreen vegetative buffer shall be present and maintained at all times along the outside of the perimeter of the fencing. The fence shall be located along the area adjacent to any residential developed property or property that is or can be developed as residential, along any Road between the SFF and residential property or any other non-compatible property as determined by the Board.

a. The buffering and design and operation of the

Solar equipment shall be installed and operated in such a manner as not to cause "Solar reflections" and/or other nuisances to adjacent or nearby non participating property.

b. The vegetative buffer "shrubby" when planted shall be at a minimum of 4 feet in height and 32 inches wide across the bottom and planted no more than 6 feet apart on center. The plants shall be of a species that will be expected to mature to a minimum of 6 feet in height within 36 months of planting. Each plant shall be of the evergreen species. There shall be established at least one "over story" tree every 33 feet along the buffer line. Natural forest or vegetation may be used to satisfy this requirement. The entire vegetative buffer shall be maintained at a minimum of 75% opacity.

c. The vegetative buffer requirements shall comply with Article XII of this ordinance as modified herein. The buffer shall continue notwithstanding the fact that the SFF is no longer operational and/or falls into disuse unless and until such SFF is dismantled and removed.

ARTICLE X

TEMPORARY USES

10-1 Purpose.

It is the intent of this section to permit the temporary uses customarily accompanying the erection of permitted structures, or the establishment of permitted uses, or the accomplishment of permitted operations, as necessary to such work and not substantially injurious to the public health, safety, morals or welfare. It is also the intent to permit customary uses of land, and of existing buildings and surrounding land, which are temporary in nature.

10-2 Temporary Uses Permitted.

If applicable requirements of the Health Department are met, customary temporary uses shall be permitted including but not limited to the following:

1. Temporary structures and storage areas on construction sites for the duration of the construction activity;

a. Temporary structures on sites of grading operations;

b. Temporary structures, manufactured homes or storage area of public agencies in the conduct of proprietary or governmental operations;

c. Should construction stop or become abandoned for a period of 90 days, then all temporary structures and storage areas are to be removed from the site

2. Temporary Storage.

a. Portable storage containers may be located on residential or commercial property in connection with moving or relocation of personal property. The placement of such storage container shall not exceed 90 days.

b. After the container owner or custodian is notified of the expiration of time either in person, by letter or affixing a notice to the container, the notice shall advise a not to exceed 10 days compliance to remove. The owner or custodian (or both) is subject to civil penalties as provided in the Zoning Ordinance.

c. the Town may summarily remove the container from the premise to a storage area.

d. The container may be recovered by the owner/custodian after paying the cost incurred by the Town of relocating and storing the container. the Town shall be held harmless for any damage to the container or its contents.

e. The container, once stored by the Town, will be declared abandoned if unclaimed after 90 days and may be disposed of as prescribed by law.

10-2.1 The Use of Open Land for Meeting or Recreation.

a. Circus or carnival, rodeo, horse show, car and boat show, church tent revival, sand lot ball fields and the like, or the sale of Christmas trees, baked goods, or collected clothing and the like. Temporary structures may be erected such as tents, portable bleachers, rest room facilities and concession stands.

b. Zoning permits for temporary uses may be reviewed and issued annually. the Zoning Administrator may determine that a temporary use should be considered by the Board of Adjustment for renewal as a permanent use.

10-2.2 Emergency Relief From the Terms of this Ordinance.

a. In case of fire, flood, hurricane, tornado and the like, and where the Mayor has declared an emergency or disaster, certain provisions of this

Ordinance may be temporarily suspended for the duration of the emergency. Such temporary relief may be to allow a manufactured home or other recreational dwelling to be placed and occupied on a residential lot, not otherwise permitted, for a reasonable time to allow the damaged dwelling to be repaired. A copy of the emergency declaration shall accompany the temporary use permit.

b. A temporary permit may be approved by the Zoning Administrator for the installation and occupancy of a manufactured home or recreation vehicle on a lot zoned for manufactured homes where a dwelling has been damaged by fire, flood or the like for a reasonable time to allow the repair or reconstruction of the damaged dwelling. A recreation vehicle may be occupied in any zone for only the above purpose.

c. Permit fees will be suspended for emergency repairs and temporary dwellings. Where substantial damage or replacement of the dwelling, building(s), or structures, or new construction is required, full permit fees as normal construction will be paid. Where extreme financial hardship may arise as a result of the emergency damage, the Council may suspend or reduce all fees as they deem appropriate on an individual basis. This temporary relief does not grant relief from the repair, replacement and new construction to comply with all other requirements of the zoning ordinance or the North Carolina Building Code.

10-3 Permit

a. Any temporary use shall be established only after issuance of a zoning and/or building permit for such use. Duration of the temporary use shall be specified on such permit.

b. the Board of Adjustment may issue a temporary use permit beyond the time specified herein where special circumstances exist to warrant such an extension.

ARTICLE XI**GENERAL AND SPECIAL PROVISIONS,
EXCEPTIONS AND MODIFICATIONS****11-1 Walls and Fences**

a. The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit any planted buffer strip, fence or wall. However, no fence or wall shall exceed a height of four (4) feet in any front or side yard forward of the front building line.

b. Fences and planted buffer strips may encroach inside utility and drainage easements provided that any encroachment will not damage or impede the use of the easement for utilities, drainage or other intended use of the easement. Should at any time the utilities, drainage or other appropriate use of the easement requires maintenance, construction or access, the encroachment shall be immediately removed by the owner or agent at the expense of the owner or agent. Should the encroachment not be immediately removed, then the Town, utility or any other one entitled to the use of the easement may cause the removal of the encroachment to the extent necessary and shall not be liable for any damages caused by the removal.

11-1.1 Hazardous Locations.

a. In no case shall any fence, wall, hedge or screen planting be located or constructed so as to cause a hazard to the movement of vehicles or pedestrians, as determined by the Director of Public Works or Zoning Administrator.

b. Barbed wire and electrified fences are prohibited in all residential districts or within fifteen (15) feet thereof, except in R-20 district or when higher than five (5) feet above grade, such as top strand of a fence where protection or security is clearly required for uses such as utility facilities, and approved by the

Zoning Administrator. Pet or animal containment electric pulse type fences may be permitted on the owner's side of a fence or barrier such as a wood stockade type fence so long as reasonable care is provided to not be an attractive nuisance or hazard to persons on the opposite side of the fence.

11-2 Structures Excluded From Height Limitations.

Penthouses or roof structures for the housing of elevators, stairways, tanks, HVAC systems or other similar appurtenances required to operate and/or maintain a building, skylights, Amateur Radio and Citizens Band Radio towers. Any Radio Towers in Commercial or Industrial Districts, steeples, flag poles, chimneys, satellite dish antennas, Telecommunication Services antennas in stealth format in residential districts, water tanks, silos and similar structures excluding signs may be erected above the height limits specified herein; however, no penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing human occupancy.

11-3 Substandard Lots of Record

Any lot of record existing at the time of the adoption of this Ordinance, which has an area or a width, which is less than required by this Ordinance, shall be subject to the following exceptions and modifications:

11-3.1 Adjoining Lots

Where two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of this Ordinance, and such lots individually are less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located.

11-3.2 Lots Not Meeting Size Requirements

Except as set forth in 11-3.1 in the above, in any district in which single-family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has an area, depth or a width which is less than required by these regulations may be used as a building site for a single-family dwelling

11-3.3 Side Yard Requirements

a. Except as set forth in 11-3.1 above, where a lot has a width less than that required in the district in which it is located, then the Zoning Administrator shall be authorized to reduce the side yard requirements for such lot provided that no side yard shall be less than eight (8) feet wide. No side yard shall be required for town house units from the newly created lot line dividing a town house in compliance with Article III, Section 3-4.1 of this Ordinance.

b. The location of required yards on irregular shaped lots shall be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings on individual lots.

11-4 Reserved for Future Codification

11-5 Sedimentation and Storm Water Management

a. All developers of a tract where one (1) or more acre is disturbed, shall apply to:
North Carolina Department of
Environmental and Natural Resources
Division of Land Quality
127 Cardinal Dr. Extension
Wilmington, NC 28405,
for a Sedimentation, Erosion and Storm Water
Control Permit.

b. Permits from the Town shall not be issued for land

disturbing activities that exceed one (1) acre until sedimentation control permits or exemptions have been obtained.

c. Permits issued by the Town of Newport do not exempt any project from the requirements or permits of any other office i.e.: U.S. Army Corp of Engineers, CAMA (Major or Minor) or Division of Environmental Management (DEM).

d. The following controls may be above and beyond that required by DEM, or other offices:

1. Erosion control shall be practiced on sites less than one acre.
2. All graded slopes and fills will be on a 3:1 slope minimum (three feet of run to every one foot rise) unless substantiated by good engineering design and approved by the Zoning Administrator.
3. Silt fence shall be used where sheet flow will create an erosion problem. Silt fences will not be allowed to control erosion in a channel flow situation.
4. A filter check dam and sump will be required to control erosion in a channel flow situation.
5. A gravel construction exit is required at all points where construction traffic encounters a paved road.
6. Sediment shall be controlled on site by an approved method, at all cost, regardless of who is responsible.
7. Spoil from any site shall be disposed of in an approved landfill.
8. All denuded areas shall be stabilized within 30 days of completion of any land-disturbing activity or prior to issuance of the Certificate

of Occupancy.

e. The soil erosion and sedimentation controls are performance orientated and are the minimum required for the protection of the natural resources and adjoining properties. If following the commencement of the project it is determined that the planned controls are inadequate, the Zoning Administrator may require revisions of the plan and its implementation to insure compliance with this chapter.

f. During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance or the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

g. Where permanent maintenance of sedimentation and storm water runoff systems are approved by DEM, the Town Council may impose additional requirements for detention ponds and drainage ditches to minimize flooding and to assure continued maintenance which may, but are not limited to:

1. Require dedication to the public;
2. Require and/or approve a home owners association.

h. Notwithstanding previous provisions when it is determined that severe off-site erosion and/or sedimentation occur as a result of any land-disturbing activity, regardless of the size of the site, remedial action shall be taken within a reasonable time period after notification. Notification of violation shall be submitted in writing by the Zoning

Administrator and receipted by the owner or agent responsible for the damage.

11-6 **Outdoor Merchandise Display.**

All uses and operations except activities customarily conducted out of doors such as service stations, parking, loading, etc., shall be conducted within a completely enclosed building unless specific approval is granted through site plan review for outside display or maintenance. This prohibition shall not prohibit the sidewalk display of goods during normal store hours provided that all display items and/or merchandise whether for sale or not is removed from the front yard or is not visible to the street after hours of operation.

11-7 **Habitable trailers.**

The use of camp cars, campers, manufactured homes, recreation vehicles, travel coaches, or travel trailers for commercial, industrial or professional purposes is prohibited. All above named vehicles, when occupied, shall be located within an approved manufactured home park. "Occupied" shall mean any full- or part-time habitation for any purpose. Manufactured (mobile homes) shall not be stored, kept or maintained whether or not occupied, on any lot in any zoning district not permitting such manufactured home. The following exceptions shall apply:

a. Recreation vehicles or tents as listed above, except manufactured homes, may be occupied in conjunction with any residential dwelling such as for guests accommodations for a period not to exceed thirty (30) days. the Zoning Administrator may permit one thirty-day extension.

b. Trailers used in conjunction with temporary, recurring outdoor or open land commercial uses, such as charitable activities, Christmas tree sales, recreation or entertainment activities upon approval of the Zoning Administrator.

c. Trailers used as construction shacks or on-site field offices at a construction site upon approval of the Building Inspector.

d. Nothing in this section shall be intended to exclude home occupations as an accessory use in a manufactured home within an authorized manufactured home park or lot.

e. Manufactured homes may be permitted on lots zoned R-20 and R-20MH.

f. Only one manufactured home may be permitted on the approved lot and a manufactured home shall not be permitted on a lot in conjunction with any other residential house. This does not preclude two or more manufactured homes from being connected together to form one single-family dwelling unit.

g. No person shall install or cause the installation of any manufactured home (mobile home) within the zoning jurisdiction of the Town unless the manufactured home is wind zone III rated.

EXCEPTION

The exception to this part is found in North Carolina Regulations for Manufactured Homes Section 3.4.6 which exempts homes manufactured prior to July 13, 1994 from the wind zone III requirement. However, manufactured homes manufactured prior to July 13, 1994 shall be rated wind zone II. Wind zone I homes shall not be permitted unless exempted per Section 3.4.4 of the NC Regulations for Manufactured Homes.

h. A manufactured (mobile home) that is wind rated less than zone III and manufactured after July 13, 1994 and is legally installed within Newport's jurisdiction may be moved or relocated from one dwelling location to another permitted dwelling location within an approved zoning jurisdiction.

i. The Building Inspector may make an inspection of the manufactured home prior to issuing a permit to locate or install the manufactured home within the Town's jurisdiction to determine if the home is in compliance with the Ordinance Dealing With Minimum Housing Standards and the unit can be properly set up. The Building Inspector may deny the issuance of the Certificate of Occupancy on the basis of non compliance with the Minimum Housing Standards Ordinance, any other relevant Town Ordinance or North Carolina Building Code.

j. Manufactured homes (mobile homes) shall not be used as storage units or in any other manner not originally intended.

ARTICLE XII**LANDSCAPING AND BUFFERING****12-1 Landscaping and Buffering.****12-1.1 Administrative and General Requirements**

The Town of Newport is blessed with a diverse and abundant cover of trees and vegetation and such cover is of general aesthetic value to the Town. The appearance of the Town of Newport contributes ecologically and aesthetically to the growth and economic prosperity of the Town. Therefore, it is necessary to protect, preserve and restore this valuable asset. The intent and purpose of this article is as follows:

- a. To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge, and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement;
- b. To encourage the preservation of existing trees and desirable vegetation;
- c. To assist in providing clean air;
- d. To provide visual buffering and enhance the beautification of the Town;
- e. To safeguard and enhance property values and to protect public and private investment;
- f. To preserve, protect, and restore the unique identity and environment of the Town and preserve the economic base attracted to the Town by such factors;
- g. To conserve energy; and to protect the public health, safety, and general welfare;

h. To provide habitat for living things that might not otherwise occur or be found in urban and suburban environments.

12-1.2 Application and Permitting.

a. An application for development, other than a single family house on an existing lot, shall be accompanied by a landscape site plan and filed with the Zoning Administrator. Said application shall be accompanied by a filing fee as established in the Town fee schedule.

b. A building permit shall not be issued until the site plan has been submitted and approved. A certificate of occupancy shall not be issued until the landscaping is completed in accordance with the approved landscape plan.

c. Where the development project is large enough to require a NCDENR permit for sedimentation and erosion controls, the developer shall furnish the planning department with two copies of the DEM application to include storm water management design drawings. the Town Manager may require a review and recommendation for approval or modification of the storm water design by the Town engineer or other designated person. The engineering review cost shall be charged to and paid by the developer. Full payment shall be made prior to any construction permits issued by the Town.

d. Where conditions do not permit immediate planting and/or landscaping is not completed when requesting a Certificate of Occupancy, the owner may post a bond as provided herein to guarantee completion.

e. If the Zoning Administrator is furnished with a bond equal to 250 percent of the cost of the total required planting (including labor) and a signed statement by the developer or business owner of the following conditions, then a temporary certificate of occupancy may be issued. The required bond must

be in the form of a cashier's or certified check, or a letter of credit from an approved lending institution, made payable to the Town of Newport. Conditions for bonding:

1. The site must be prepared to conform to the landscaping ordinance with the exception of the actual installation of the plants.

2. Planting must be installed and approved within three months from the date a temporary certificate of occupancy is issued or bond will be forfeited to the Town. Additional time may be granted by the Planning Board for unusual circumstances. The owner will be subject to civil penalties for continued violation of the Zoning Ordinance.

3. The cost estimate is to be prepared by a qualified landscape contractor or nurseryman using prevailing material and labor costs. All cost estimates must receive approval of the Zoning Administrator.

12-1.3 Visibility at Intersections

On a corner lot, nothing, except as herein provided, shall be erected, placed, planted or continued to exceed the height of three (3) feet or be lower than eight (8) feet, which inhibits the visibility of a motor vehicle operator within a triangular area formed by the intersection of the right-of-way of two streets or railroads, or of a street and a railroad, and a diagonal line, line of vision (L.O.V.), which intersects the right-of-way lines at two (2) points each twenty-five (25) feet from the intersection of the right-of-way lines.

12-1.4 Landscaping Restrictions and Limitations.

12-1.4.1 Restrictions The following trees may be incorporated within the landscape but will not be given credit for the minimum required tree in the front yard:

1. Trees that are "tropical" type species, such as

palm tree;

2. "Bradford" pear tree;

3. Dogwood tree;

4. Crape Myrtle tree;

12-1.4.2 Prohibited plants. The following plants are specifically prohibited from use to meet the landscaping requirements of the Town of Newport:

1. Poison Ivy, Poison Sumac, Poison Oak or any other plant poisonous to touch;

2. Yucca, Spanish Bayonet, Adams Needle, Cactus or any other plant harmful to touch;

3. Railroad or Kudzu Vine;

4. Avoid nuisance or harmful plants and incongruous plant choices.

5. Any other plant determined by the Zoning Administrator to be a nuisance or excessively subject to diseases.

12-1.5 Requirement conflicts.

Whenever a site has conflicting requirements that with the most stringent requirements will be enforced.

12-1.6 Waiver of Screening Requirements and Other Exceptions.

a. Where screening is already provided or when unusual topography or elevation of a site, or the size of the parcel involved, or the presence of screening on abutting property would make the strict adherence to the Ordinance serve no useful purpose, the Zoning Administrator may waive the requirements for screening as long as the spirit and intent of this Ordinance are adhered to. This section does not negate the necessity for establishing

screening for uses abutting vacant property.

b. In older areas of the CD zone where there is not adequate property available. Where property is available then landscaping is required to the extent possible.

c. the Town Planner or Zoning Administrator may consider minor variations from the explicit requirements of this part where a better architectural plan can be demonstrated. There may be cases where it is not practical or desirable and landscape would be ineffective and/or would interfere with traffic or pedestrian safety to adhere to the strict interpretation of this part and so long as the spirit and intent of this part is satisfied.

12-1.7 Landscaping Installation

a. All landscaping shall be installed in a sound, workmanship-like manner and according to accepted, good planting practices and procedures.

b. Plants shall require protection from vehicular encroachment.

12-1.8. Erosion and Sedimentation Control Criteria

Landscaping, screening and buffering shall not interfere or damage off site properties and must conform to any other town erosion control or drainage requirements. Any situation inconsistent with this requirement shall be remedied at the expense of the property owner causing the problem.

12-1.9.Maintenance Responsibility

a. The owner of the property shall be responsible for the continued proper maintenance, repair, and replacement of all landscaping materials.

b. All unhealthy, fifty (50) percent or more dead or completely dead plant shall be replaced with

originally specified plants or approved substitutions within one year.

c. Any violation will be noted and property owners will have ninety (90) days in which to correct all violations, except in those cases when plant material replacement should be delayed because of seasonal factors until the next planting season.

d. Failure of the owner to provide maintenance as described above shall constitute a violation of the Newport Zoning Ordinance.

12-2. Buffers and Screening

a. Any non-residential use established after the effective date of these regulations which abuts a residential district or land occupied by residential use permitted by these regulations, or other incompatible uses or wherever screening is required, shall provide and maintain along said property line a continuous visual buffer. A buffer shall be a minimum five (5) feet wide. The purpose of the buffer is for separation, or for reducing noise, glare, visual or other nuisance, and/or other undesirable effects. An undeveloped or forested area along the property line that can be maintained may be given credit for the buffer requirement.

b. The vegetative buffer shall contain evergreen shrubs spaced not more than five feet apart, and not less than one row of dense shrubs planted at an initial height of at least five (5) feet plus one evergreen or deciduous tree minimum 2 inch caliper size per 30 feet of lineal boundary or fraction thereof.

NOTE

Refer to the following illustration situations for guidance in interpreting the requirements of this section



Situation (1)

For situation (1), most commonly used when less intensive office or commercial districts abut residential or apartment districts. Shall consist of plants with minimum height at planting of two (2) to three (3) feet and reaching a height of eight (8) to ten (10) feet at maturity. The intent of this category is to provide dense landscaping to visually and physically separate uses.



Situation (2)

For situation (2), most commonly used when industrial districts abut residential districts or apartment districts. Shall consist of evergreen plants, branching to the ground, with a minimum height at installation of five (5) to six (6) feet and reaching a

height of twenty (20) feet at maturity. The intent of this category is to provide for medium height and dense landscaping to visually and physically separate uses. The width of the planting area shall be twenty-five (25) feet, unless otherwise specified.



Situation 3

For situation (3), most commonly used to provide tall landscaping to visually and physically separate incompatible uses. Shall consist of plants, branching to the ground, with a minimum

height at installation of five (5) to six (6) feet and reaching an ultimate minimum height of thirty (30) feet at maturity.



Situation (4)

In situation (4), most commonly used when business districts abut residential districts or apartment development or where it is determined that more stringent buffering is required. Shall consist of evergreen trees branching to the ground or a combination of trees and shrubs. The intent of this category is to provide landscaping with sufficient density, mass and height to physically and visually separate uses. Planting is encouraged to be innovative in terms of spacing and linear arrangement to allow the widest possible variation for visual enhancement while separating uses. Plantings should not encroach onto adjacent properties. The width of the planting area shall be fifteen (15) feet, unless otherwise specified.

c. When a vegetative buffer is deemed inappropriate, the Zoning Administrator may allow either a durable masonry wall or wooden fence designed to be compatible with the character of adjacent properties. Within residential districts, walls and fences must be at least five feet in height but no greater than ten feet in height, measured from the ground along the common lot line of adjoining properties.

d. Public utilities and similar uses, such as antenna tower, pump stations, etc., that are normally unmanned, need only fence around the immediate area of the facility unless the Zoning Administrator determines that screening the entire area is required.

e. Unless otherwise provided, buffer materials shall be installed to provide a minimum of 70 percent summer opacity, between one foot above finished ground level of the vehicle use area being screened or of the landscape buffer between uncomplimentary uses to the top of the required planting, hedge, fence, wall or earth mound within four years after the installation.

12-2.1. Increase in Buffering

In instances of incompatible uses, or significant use intensity or density changes, a buffer area may be

required with screening structures, landforms, and/or vegetation as prescribed by the Board of Adjustment or Planning Board as appropriate.

12-3. Minimum Required Landscaping

12-3.1. Where Landscape Materials are Required.

a. This and following sections describe the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicle use areas, landscape buffers relating to incompatible land uses and zones, additional landscaping requirements, and screening of garbage containers.

b. In all zones uncovered area shall be landscaped. This requirement pertains to all new developments.

12-3.2. Existing Developed Sites.

a. When any of the following occurs to preexisting situations then landscaping shall be incorporated as specified herein to the maximum extent possible:

1. Structural additions of more than ten percent of the total gross floor area of all existing buildings are to be undertaken or,

2. An existing structure or land use is to be reused for a different principal use or,

3. Existing vehicle use areas on the premises do not comply with this subsection. In the event that such an existing vehicle use area is unable to comply with these requirements without reducing the number of existing parking spaces, such vehicle use areas shall comply to the maximum extent possible without loss of existing parking spaces.

b. Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when such material meets the requirements and achieves the objectives of this Ordinance.

12-4 Residential Landscaping Other Than Multifamily or PUD Development.

For single family or two family development, this section does not address the requirement for side yard or rear yard landscaping.

a. **Trees.** All new construction of single residential lots or subdivision lots. The minimum planting size of 8 feet high at the time of installation, 2" caliper, planted every 30 feet on center of lineal boundary of street frontage for a minimum of two (2) trees in the front yard.

b. Existing trees may be retained and credit may be given provided the trees are healthy and in good condition, and adequate tree protection practices are followed. This pertains to only the front yard.

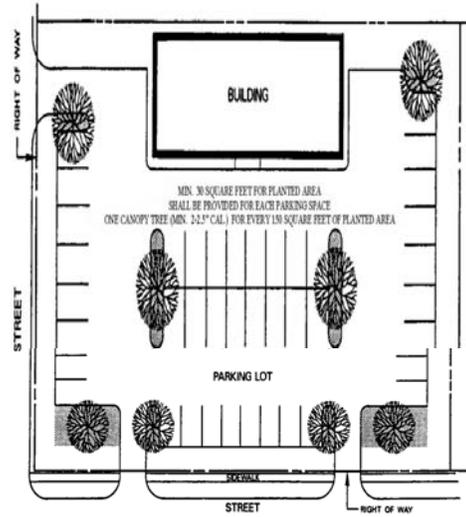
c. Only canopy type trees can be utilized for minimum credit. Trees should be placed so as not to interfere with underground or overhead utility lines.

d. To encourage creativity, trees may be randomly spaced within the front yard as long as the total number of trees required is utilized.

12-5. Commercial, Industrial and Other Structures Landscaping

12-5.1. Parking Lots

A parking lot is any area where motor vehicles are stored for the purpose of temporary, daily, or overnight off-street parking. The Parking Lot and Foundation Landscaping Section applies to the following:



Sample of internal parking lot landscaping

1. Any public or private parking lot with ten (10) or more spaces;



Note: Paving treatment, benches and trash receptacles assist in creating a pedestrian friendly entrance area.

2. Existing parking lots whose enlargement or reconstruction will increase it to ten (10) or more spaces;

3. Interior Coverage Requirements consists of planted areas within the perimeter of the parking lot;

4. The minimum landscape area permitted shall be 64 square feet, with four-foot minimum dimension to all trees from edge of pavement where vehicles overhang;

5. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of pavement and at strategic points to guide travel flow and direction;

6. In order to encourage the required landscaped areas to be properly dispensed, no required landscape area shall be larger than 350 square feet in vehicle use areas under 30,000 square feet in size and no required area shall be larger than 1,500 square feet in vehicle use areas over 30,000 square feet;

7. Landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum;

8. Required interior landscaping located as herein provided shall be in addition to the perimeter landscaping requirements;

9. One (1) tree is required for every one hundred fifty (150) square feet of planted area;

10. Trees must be a minimum of two (2) inch caliper and 8 ft tall at time of planting;

11. Only canopy type trees can be utilized, not those typically considered ornamental and under story trees. Trees should be placed so as not to interfere with overhead utility lines or parking lot lighting;

12. Trees must be planted in a minimum sixty-four (64) square-foot area;

13. Islands must provide a minimum four (4) foot distance from the tree trunk to any curb and sized to accommodate the tree growth. Vegetative landscaped islands shall be located in the vehicle accommodation area at the end of parking bays, inside medians, or between parking spaces;

14. All plantings shall be distributed throughout the vehicle accommodation area where practical;

15. Existing trees may be retained and credit may be given provided the trees are healthy and in good condition, and adequate tree protection practices are followed;

16. Coverage areas may incorporate turf, grasses, rocks, pebbles, sand, or other approved materials;

17. Shrubs shall be a minimum of eighteen (18) inches in height or spread and minimum five (5) gallon container at time of planting;

18. Interior coverage landscaping is required along drive aisles that connect different sections of parking areas.

12-5.2. **Street Frontage Requirements**

a. Street Frontage Requirements consists of a planting strip, made up of trees and shrubs, located between the abutting edge of the sidewalk and parking lot curb line, or where there is no sidewalk, between the public right-of-way line and the parking lot curb line.

b. The street frontage planting area must be a minimum five (5) feet in width.

c. Where the street frontage requirements conflict with adequate sight distances required at driveways and street intersections, the provisions of Article XI of the zoning ordinance shall apply.



Example of street frontage

12-5.3. **Shrubs, Berms, Walls and Fences**

The street frontage area must contain one or a combination of the following features:

12-5.3.1. **Shrubs**

- a. One (1) shrub per four (4) linear feet must be provided. (Example: 25 shrubs per 100 feet)
Seventy percent (70%) of species utilized must be evergreens.
- b. To encourage creativity, shrubs may be grouped or randomly spaced as long as the total number of shrubs required is utilized.
- c. Shrubs shall be a minimum of twenty-four (24) inches in height at time of planting.

12-5.3.2. **Berms**

Where Berms are used, they shall be undulating and/or meandering with a maximum height of four (4) feet.



Example of landscape Berm

12-5.3.3 **Walls and Fences**

- a. In lieu of shrubs, a wall or fence may be utilized which conforms to the minimum fencing standards found in the Town Zoning Ordinance, (Chain link fences may not be used unless it is proven to be necessary for security)
- b. Walls and fences shall be a minimum of three (3) feet in height.
- c. Walls should be made of the same or compatible material and color as the principal structure in terms of texture and quality.

2-5.4. **Building Foundation Perimeter Planting.**



Example 1 of landscaped commercial/public building.



Example 2 of landscaped commercial/public building.

a. Foundation plantings are required for all commercial, public, industrial buildings and structures. The requirements for foundation planting are as follows:

b. A minimum of fifty (50) percent of any side of a building facing a public right-of-way must be planted.

c. Plantings must be placed adjacent to building sides or provided in planters near building sides.

d. Planted areas must be a minimum of three (3) feet in width excluding a minimum two (2) foot wide strip along the curb for vehicular overhang, unless wheel stops are used. If trees are utilized, the planting area should be sized for the tree growth.

12-5.4.1. **Shrubs**

a. Shrubs planted immediately adjacent to the building shall be a minimum of eighteen (18) inches in height at time of planting.

b. Shrubs planted in elevated planters located near the building should be a minimum of fifteen (15) to eighteen (18) inches in height or spread and minimum three (3) gallon container at time of planting.

c. One (1) shrub is required for every fifteen (15) square feet of total required landscaped area.

d. Foundation plantings should be grouped and maintained so as not to block or obstruct windows and doors.

12-5.5. **Out of Doors Display Areas**

A display area is an area generally considered accessible to the public including auto/truck sales, leasing and rental lots, recreational vehicles sales, trailer sales lots, etc.

Planting requirements for display areas are:

a. Interior Coverage Requirements consists of planting areas within the perimeter of the display area;

b. Street Frontage Requirements consists of a planting area, made up of trees and shrubs, located between the abutting edge of the sidewalk and display area curb line, or where

there is no sidewalk, between the right-of-way line and the display area curb line.



Example 1 of a display area for vehicle sales lot.



Example 2 of a display area for manufactured homes.

12-5.5.1. Interior Coverage Requirements

- a. All interior coverage areas may be planted with turf grasses, ground covers, or ornamental shrubs.
- b. Shrubs shall be a minimum of eighteen (18) inches in height or spread and minimum three (3) gallon container at time of planting.

- c. Ground covers may also consist of rocks, pebbles, sand, or other approved materials.
- d. Islands must provide a minimum four (4) foot distance from the tree trunk to any curb and sized to accommodate the tree growth.
- e. In display areas of less than thirty thousand (30,000) square feet, no planting area exceeding three hundred fifty (350) square feet shall be given credit toward satisfying the interior coverage requirement, except where trees are retained and protected during construction.
- f. In display areas thirty thousand (30,000) square feet or greater, no planting area exceeding fifteen hundred (1,500) square feet shall be given credit toward satisfying the interior coverage requirement, except where trees are retained and protected during construction.
- g. In no case shall entrance islands be credited with more than three hundred fifty (350) square feet toward satisfying the interior coverage requirements.

12-5.5.2. Trees

The tree requirements must conform to the following specifications and standards at time of planting:

- a. Trees must be planted in a minimum sixty-four (64) square foot area;
- b. One (1) tree is required for every one hundred fifty (150) square feet of planted area;
- c. Trees must be a minimum of two (2) to two and one-half (2½) inch caliper at time of planting;
- d. Only canopy type trees can be utilized, not those typically considered ornamental and under story trees. Trees should be placed so as not to interfere with overhead utility lines or parking lot lighting;

e. Existing trees may be retained and credit may be given provided the trees are healthy and in good condition, and adequate tree protection practices are followed.

12-5.5.3 Plantings Which May Not Count Toward Meeting Interior Coverage Requirements:

- a. Plantings required for screening along the perimeter of the site;
- b. Plantings required by the street frontage requirements or foundation requirements of this Ordinance;
- c. Plantings required for the screening of dumpsters and loading docks;
- d. Plantings required for buffering between uses.

12-5.5.4. Street Frontage Requirements

- a. Street frontage planted areas must be a minimum five (5) feet in width.
- b. Trees and shrubs are required in the planting area. In lieu of shrubs, a wall or fence a minimum of three (3) feet in height may be utilized. Berms, a minimum of three (3) feet in height, that meander and/or undulate, may also be used in lieu of shrubs.

12-5.5.5. Exceptions for the Street Frontage Requirements:

- a. Where street frontage requirements conflict with adequate sight distances required at driveways and street intersections, the provisions of the zoning ordinance shall apply.
- b. Sight distance requirements as specified under other sections of this Ordinance.

12-5.5.6. Trees

- a. The tree requirements must conform to the following specifications and standards at time of planting. To encourage creativity, trees may be grouped or randomly spaced as long as the total number of trees required are utilized.
- b. Minimum of "Medium" size with 25 feet spacing and 1¼ - 1½-inch caliper (6 - 8 feet in height)
- c. Additionally, existing trees may be retained and given credit provided the trees are healthy and in good condition and adequate tree protection practices are followed.

12-5.5.7. Shrubs, Berms, Walls, and Fences:

- a. The street frontage area must contain one or a combination of the following features:
- b. One shrub per four (4) linear feet must be provided. (Example: 25 shrubs per 100 feet) Seventy percent (70%) of species utilized must be evergreen.
- c. Shrubs shall be minimum of twenty-four (24) inches in height at time of planting.
- d. To encourage creativity, shrubs may be grouped or randomly spaced as long as the total number of shrubs required is utilized.
Berms
- e. Berms shall be undulating and/or meandering with a minimum height of three (3) feet and a maximum height of four (4) feet.
- f. Berms that are planted and mulched shall not exceed a slope ratio of 2:1. This requires a minimum twelve (12) foot base width for a three (3) foot high berm.
- g. Berms covered with turf grass shall not exceed a slope ratio of 3:1. This requires a minimum eighteen (18) foot base width for a three

(3) foot high berm.

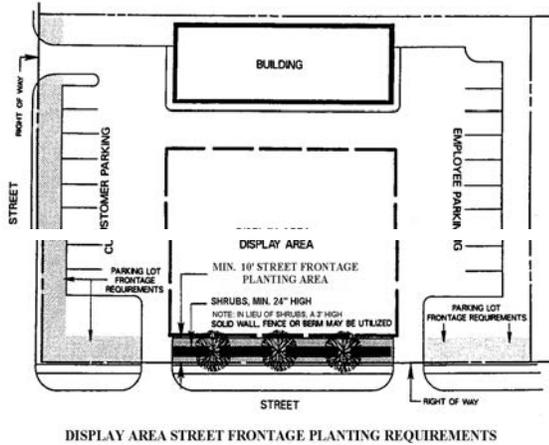
h. In lieu of shrubs, a wall or fence which conforms to the minimum fencing standards found in the Section 11-1 may be used. (Chain link fences may not be used.)

i. Walls and fences shall be a minimum of three (3) feet in height.

j. Walls should be made of the same or compatible material and color as the principal structure in terms of texture and quality.



Example 1 of landscaped dumpster



Example 2 of landscaped dumpster

12-5.6. Dumpsters and Trash Receptacles Area

Dumpsters and/or trash receptacles shall be screened from view by the following combination:

12-5.6.1. Solid Fence or Wall

a. A solid fence or wall shall be a minimum of six (6) feet in height.

b. The fence or wall shall be made of the same or compatible material and color of the principal structure in terms of texture and quality.

12-5.6.2. Plants

a. Shrubs shall be planted at a minimum of forty eight (48) inches in height at time of planting.

b. Shrubs shall be planted a maximum of four (4) feet on center.

12-5.7. Loading Docks

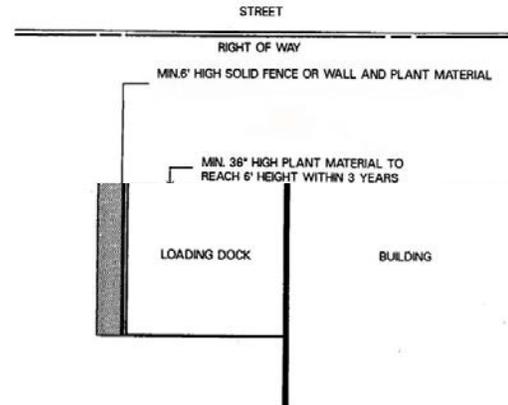
- A loading dock is a platformed space within the building or that protrudes from the building for the standing, loading, or unloading of trucks.
- Loading docks not screened by an intervening building shall be screened from view its entire length, except for necessary access.
- Screening should be accomplished by the following combination:

12-5.7.1. Solid Fence or Wall

- A solid fence or wall shall be a minimum of six (6) feet in height.
- The fence or wall shall be made of the same or compatible material and color of the principal structure in terms of texture and quality.

12-5.7.2. Evergreen Plants

- Evergreen plants which are expected to reach six (6) feet or greater within three (3) years of planting shall be provided.
- The plants shall be a minimum of thirty-six (36) inches in height when planted.
- The plants shall be planted a maximum of four (4) feet on center.



Typical screening diagram of loading dock

12-6. Free-Standing Sign Landscaping

A minimum of seventy-five (75) square feet of planted area shall be provided around any free-standing sign. Planting material shall include a combination of:

- Grass, ground cover, low shrubs not exceeding a height of three (3) feet at maturity or design elements used in conjunction with the sign not exceeding the three (3) foot height limit;
- All plant materials shall be placed in a defined planting area which shall be a minimum of six (6) feet in width. All plantings shall be maintained so as not to obstruct the view of the sign face on either side, nor shall any materials used for landscaping encroach onto adjacent properties;
- All plant materials utilized to fulfill the free-standing sign planting requirement shall be subject to the approval of the Planning Department;
- Free-standing sign landscaping shall be designed so as to be compatible with parking lot plantings in order to help achieve the goal of a unified project design;

e. Free-standing sign landscaping area shall be included as a credit in the calculations for any area required for parking lot landscaping.



Example 1 of landscaped free standing sign



Example 2 of landscaped free standing sign

ARTICLE XIII**OFF-STREET PARKING AND ACCESS REQUIREMENTS****13-1. General Provisions****a. Scope of Provisions.**

Except as provided in this section, an application for a building permit for a multi-family, commercial, or industrial use shall include a site plan showing the required space reserved for off-street parking and access. The plan may include landscaping. An occupancy permit shall not be issued unless the required off street parking and access have been provided in accordance with those shown on the approved plan.

b. Off-Street Parking Required.

In all districts at the time any building or structure is constructed or enlarged, or the use is changed or increased in intensity, off-street parking spaces for automobiles and/or bicycles shall be provided in accordance with the requirements herein. Said spaces shall be located on the lot containing the use itself; provided however, in unusual or extraordinary circumstances the Zoning Administrator may grant approval to allow a portion or all of the required spaces to be located on a lot which is accessible to the lot containing the use itself. The approval shall be based on the accessibility of the lot. In order to merit favorable consideration, the applicant must provide evidence to the satisfaction of the Zoning Administrator that a suitable long-term lease or other legal agreement can be executed and recorded which would guarantee that the lot containing the use has the irrevocable right to utilize the adjacent lot for off-street automobile and/or bicycle parking purposes.

13-2. Prohibition of Reduction in Size and Number of Spaces.

Parking space requirements of this article shall not be reduced in size or number, modified, or transferred to another use without proper zoning and/or building permits. When parking spaces are a Special Use Permit, the owner must have received a variance from the Board of Adjustment. In order to receive a variance, the lot owner must demonstrate that the tenant(s) or occupant(s) of the subject lot will not: (1) need the number of parking spaces required by this article for that general type of use(s); (2) that the area subject to the reduction in size and/or number of parking spaces can be utilized for landscaping or other aesthetic amenities not otherwise required by this article.

Exception: The off-street parking requirements within the CD District may be exempted in part where it is found that it is impracticable to provide all parking requirements of this part.

13-3. Required Bicycle Spaces.

Bicycle parking spaces, as set forth in the design criteria shall equal in number to two (2%) percent of the total number of parking spaces required as set forth in Section 13-5 with a minimum of one (1) bicycle parking space. This requirement shall be in addition to the requirement for automobile parking. This requirement may be administratively waived by the Zoning Administrator in those unique instances where it is clearly demonstrated that bicycle parking is inappropriate.



Example: bicycle parking facility in a shopping center

13-4. Accessible Handicapped Provisions.

Parking lots, ramps, walks, bridges, entrances and the like shall be designed and constructed in accordance with the North Carolina Building Code dealing with making buildings and facilities accessible to and usable by persons with disabilities, as from time to time amended, in addition to minimum requirements of this chapter.

13-5. Minimum Off-street Parking

Apartment or Multi-family dwelling	Two (2) spaces for each unit. There shall be convenient open parking spaces for guests equal in total to a minimum of fifteen (15%) percent of parking spaces required for the project.
Automobile service garages, retail stores, shopping malls, industrial and manufacturing plants, office, bank, post office and similar uses.	One (1) space for each garage, two hundred (200) square feet of gross floor area and with a minimum of 5 spaces.
Auditorium, theater,	One (1) space for three

sports arena, assembly halls, church, funeral homes, mortuaries, restaurants.	seats in the large assembly area. 18 inches counts for 1 seat for benches.
Bowling Alley	Five (5) spaces per alley plus requirements for any other use associated with the establishment such as restaurant, etc.
Dance halls, skating rinks, assembly halls without fixed seats, exhibition halls, restaurants, club or lodge.	One for each twenty five (25) square feet of gross floor area used for assembly or dancing.
Furniture, appliances & stores, automotive and boat sales/serv.	One (1) space for each floor covering six hundred (600) square feet of non storage area.
Golf course	Four (4) spaces for each hole plus requirements for any other use associated with the golf course, restaurant, etc.
Hospital	One (1) space for each (1) bed plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one space for each staff or visiting doctor.
Kindergarten nursery or day care	One (1) space for each employee and six (6) spaces for drive-in off street drop off and pickup.
Library	One (1) space for each three hundred (300) sq.ft.

Medical and dental offices or clinic	One space for each one hundred fifty (150) sq.ft of floor area with ten (10) spaces minimum .
Motel, hotel	One (1) space for each unit plus one (1) space for each two (2) employees plus requirements for any other use associated with the establishment. Residence type inns shall provide 1.25 spaces per unit.
Rooming house/boarding house	One (1) space for each guest room, plus two (2) additional spaces for the owner.
School (A) Elementary and junior	One (1) space for each teacher, employee and administrative personnel, plus five (5) visitor spaces, plus one(1) bus space for each 100 students, plus safe and convenient loading and unloading students.
(B) High School	One (1) space for each teacher, employee and administrative personnel, plus five (5) visitor spaces, one (1) bus space for each 50 students, plus one (1) space for each four (4) students.
Service station, convenience store	One (1) space for each employee, but no fewer than ten (10) spaces.
Warehouse, wholesale	One (1) space for each

establishments	five thousand (5,000) sq.ft of gross floor area plus one(1) for each company vehicle used and stored on site.
Laboratories, research and testing facility	One (1) for each employee for shift of greatest employment plus one (1) space foreach five thousand (5000) sq.ft of gross floor area plus one (1) for each company vehicle used and stored on site
Animal hospital, commercial kennels, passenger transportation, broadcasting studios.	One (1) space for each four hundred (400) sq.ft. of floor area with a minimum of ten (10) spaces.
Printing or publishing	One (1) space for each five hundred (500) sq.ft. of floor area.
Convalescent/nursing or Care home	One (1) space per two (2) patient beds plus one (1) space for each employee (nurse, attendants, etc.) plus one (1) space for each staff or visiting doctor.
College or university, vocational, technical, industrial and trade schools	At least one space per three (3) students plus one (1) space per employee for any work shift.
Museum and art galleries.	No less than ten (10) spaces and one (1) additional space for each three hundred (300) sqft of floor area or fraction thereof in excess of one thousand (1000) sqft.

Bar & tavern	At least one (1) space per each two (2) persons seating capacity.
Service or repair establishments, motion picture studio, plumbing, heating establishment.	At least one (1) space per employee on maximum working shift. Minimum five (5) spaces.

13-6. Off-Street Loading and Unloading

Where practical, every use shall provide space for loading and unloading of vehicles off the street or public alley.

13-6.1. Spaces Appropriate to Function.

Off-street loading spaces must be provided as appropriate to function and scope of operation of individual or groups of buildings and uses.

The table is not all inclusive. There may be uses that are not listed or not equivalent. For those uses, the Planning Department may make a determination of the nearest and best number of parking spaces for the proposed use.

13-6.2. Design of Loading Spaces.

a. Off-street loading spaces must be designed and constructed so that all maneuvering of vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as not to interfere with the normal movement of vehicles and pedestrians on public right-of-way.

b. Where more than one tenant or use is included within any building or on any one lot, the requirements shall be the sum total of the loading and unloading requirements for all of the various tenants or uses. Generally speaking, loading and unloading requirements for a building shall be based on the most common requirements for uses in the

zone in which such building is located, except where use areas are distinctively separated by building form.

13-7. Parking Design Criteria

Minimum parking lot and parking area design and dimension criteria shall be as follows.

a. The minimum width of a one-way drive shall be twelve (12) feet or as required by the Building Code.

b. Except as permitted in the parking space dimension chart, the minimum width of a two-way drive shall be eighteen (18) feet except where required by the Building Code for fire lanes and accessibility for fire fighting equipment etc.

c. Tandem parking will generally not be permitted to satisfy parking requirements except where appropriate for developments of single or two-family units.

d. Bicycle parking facilities shall be conveniently located adjacent to on-site bicycle circulation pedestrian routes and shall be provided with durable and functional bicycle racks.

e. Parking stalls and interior driveways shall have at least the following dimensions:

Type of parking	Width of stall	Depth of stall
90 Deg.	11 Ft.	20 Ft.
60 Deg.	10 Ft.	25 Ft.
45 Deg.	10 Ft.	30 Ft.

Minimum driveway width:

- 90 Deg. parking 23 Ft.
- 60 Deg. parking 18 Ft.
- 45 Deg. parking 12 Ft.

f. The minimum number of accessible parking

spaces shall be determined and installed in accordance with the NC Building Code.

g. Islands. Parking lanes shall be separated with planting islands, wheel stops or painted lines so as to provide clear avenues of travel.

13-8. Development and Maintenance of Parking Areas.

Every lot or parcel of land hereafter used as a public or private parking area, including a commercial parking lot and an automobile or trailer sales lot, shall be developed and maintained in accordance with the following requirements.

a. Separation from Walkways, Sidewalks, and Streets. All off-street parking, loading and service areas shall be separated from walkways, sidewalks, and streets.

b. Surfacing. Any off-street parking area shall be surfaced with a material providing a durable, all weather, dustless surface (e.g., asphalt or concrete paving), shall be so graded and drained as to dispose of all surface water accumulated within the area, not damage adjacent properties or streets, and shall be so arranged and marked as to provide for orderly and safe loading, unloading, parking and storage of automobiles. Pervious pavement are acceptable as well as those with open cells seeded with grass and any other surface approved by the Planning Department.

ARTICLE XIV**SIGNS****14-1. Purpose**

It is the purpose of this section to promote the creation of an attractive visual environment that promotes a healthy economy by:

- a. Permitting businesses to inform, identify, and communicate effectively; and
- b. Directing the general public through the use of signs while maintaining attractive and harmonious application of signs on the building and sites; and
- c. Protecting and enhancing the physical appearance of the community; and
- d. Regulating the design, placement and scale of the signs; and
- e. Fostering public safety along public and private streets by assuring that the signs are in a safe and appropriate location; and
- f. Assuring that the information displayed on a sign is clearly visible, conspicuous, legible and readable so that the sign achieves the intended purpose.

NOTE:

The use of drawings and illustrations in this document is intended to illustrate and simplify the meaning of its content and in no way endorses or encourages the product or services used in such illustration.

14-2. General provisions

- a. All signs within the jurisdictional area shall be covered by these sign regulations. Free standing

sign structures shall be constructed, and maintained in accordance with the 130 MPH wind design provisions as may be amended by the North Carolina Building Code.

- b. Directional signs and signs indicating entrances, drive through, exits, service and parking areas are permitted on private property where numbers and locations are approved by the Zoning Administrator, so long as the signs do not exceed four (4) sq. ft. in area, excluding logo, and are for the sole purpose of traffic control and safety. These signs may incorporate the business logo. Maximum height above the vehicle travel way of 4 feet.



Example of a directional sign with logo

14-2.1. Sign Program.

- a. A coordinated sign program is preferred for properties with multiple tenants. A sign program can provide more attractive identification and image for the property and can ensure equitable distribution of signs among the tenants.
- b. A sign program consists of a detailed plan in written and graphic form, which outlines the size, number, location, lighting, color, etc. of all signs within the complex. Once a sign program is established, signs conforming to an approved program can be authorized "over the counter" without further application or review fees.

c. Where a free standing sign for a multi tenant establishment is permitted and the owner does not exercise that option for the benefit of the tenants in the establishment within 90 days after occupancy, any tenant or group of tenants may together install one freestanding sign for their benefit. The sign shall not exceed fifty percent (50%) of the square feet permitted for the entire establishment. This will permit the owner to install one additional sign that shall not exceed the sum of the square feet that is allowed for the establishment. The additional sign shall not be installed closer than 100 feet from the original sign.

14-2.2. Traffic Safety. No sign shall be erected or continue that:

1. Obstructs the sight distance of motorists proceeding on or approaching adjacent streets, alleys, driveways, or parking areas.
2. Obstructs the sight of pedestrians proceeding on or approaching adjacent sidewalks or pedestrian ways.
3. Would tend by its location, color, or nature to be confused with or obstruct the view of traffic signs or signals or would tend to be confused with a flashing traffic light or an emergency vehicle. Automobile warning or flashing signs shall not be utilized as commercial attention-seizing devices.
4. Uses admonitions such as "stop," "go," "slow," "danger," etc. which might be confused with traffic directional signals and signs.
5. Is a sign which contains thereon one or more flashing lights or is animated.
6. Is located in or projects into the right-of-way of any public street.

14-2.3. Sign Safety

- a. No sign suspended over or projecting into the area above a driveway located on private property shall be situated at a height of less than twelve (12) feet above the surface of the said driveway, or in such a manner as it would impede the passage of any fire or rescue apparatus, which ever is higher. Clearance shall be clearly marked with 3 inch minimum letters and numerals.
- b. No sign suspended over or projecting into the area above a public sidewalk or pedestrian way shall be situated at a height of less than eight (8) feet above the surface of said sidewalk or pedestrian way.

14-3. Administration, Filing Procedure and Permits

14-3.1. Administration.

- a. Unless otherwise provided for in this Ordinance, no sign or sign structure, regardless of its cost of construction, shall be erected, replaced, relocated, constructed, changed or altered until after a permit for the same has been issued by the Zoning Administrator.
- b. The Planning Board may review and vary the strict requirements of this Article where it is determined that circumstance exist, that was not anticipated under these rules.

14-3.2. Filing Procedure.

Applications for permits to erect, hang, place, paint, or alter the structure of a sign shall be submitted on forms obtainable from the Zoning Administrator. Each application shall be accompanied by a plan showing the following:

- a. Area of the sign;

- b. Size, character, general layout and designs proposed for painted display;
- c. The method and type of illumination, if any;
- d. The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs;
- e. If conditions warrant it, the Zoning Administrator may require such additional information as will enable him to determine if such sign is to be erected in conformance with these regulations.
- f. The Building Permit Number shall be indelibly located on the structure of each sign.

14-4. Maintenance

- a. Whenever a sign becomes structurally unsafe, shows obvious lack of maintenance, abandonment or endangers the safety of a building or the public, the Zoning Administrator shall order that such sign be made safe, repaired or removed. A period of thirty (30) days following receipt of said order by the person, firm or corporation owning or using the sign shall be allowed for compliance. Upon failure to comply with the order to repair or remove the sign, the Zoning Administrator shall cause the sign to be removed and any and all expenses incurred shall be at the expense of the owner, lessee and/or property owner to which the sign is located.
- b. The Building Inspector/Zoning Administrator, without notice, may cause any unsafe or insecure sign to be immediately removed if, in his opinion, the sign presents an immediate peril to life and limb or property damage.
- c. the Zoning Administrator shall have the authority to remove and discard any sign located upon public property without notice determined to be in violation of this section.

d. Reference NCGS 136-131.2 Modernization of outdoor advertising devices.

1. Any outdoor advertising which is in effect a valid permit issued by the Department of Transportation may make any repair or reconstruction of the structure so long as the square footage of the advertising surface area is not increased. As used in this section, reconstruction includes the change of an existing monopole outdoor advertising structure to a new monopole structure.

2. Refer to NCGS 136-133.1 Outdoor advertising vegetation cutting and removal requirements.

14-5. Prohibited Signs

- a. Outdoor advertising signs(non-appurtenant signs) are prohibited within the Town of Newport and it's Extraterritorial Jurisdiction. Any poster information which becomes non-appurtenant by reason of a change in the occupancy of the premises on which it is situated or a change in or cessation of use to which said premises are devoted, shall be removed within and no later than sixty (60) days of said change by the owner of the said premises. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than ninety (90) days from the date of vacancy. Extensions of time may be granted by the Administrator when adequate proof can be substantiated to warrant more time.
- b. No unauthorized sign shall be attached to or painted on any telephone pole, light pole, or other man made object not intended to support a sign or any tree, rock, or other natural object.
- c. Signs on street furniture, such as benches, waste receptacles, fountains, phone booths, etc., are prohibited except to display a logotype.
- d. No sign lighting is allowed which switches on and

off intermittently, changes intensity and/or color, or otherwise creates an illusion of flashing or movement, except a sign which alternately displays the date, time and/or temperature shall be permitted.

e. Signs which are capable of changing their poster information by means of mechanical or electrical switching may be permitted, provided that the rate of poster information change is not more frequent than thirty (30) minutes and the complete change must take place within five (5) seconds. Customary Christmas lighting and decorations from the holiday period, thanksgiving through January 1st. shall be exempt from this prohibition.

f. Customary Christmas lighting and decorations from the holiday period, Thanksgiving through January 1st. shall be exempt from this prohibition.

g. Signs advertising activities which are illegal under Federal, State, or Town laws or regulations.

h. It shall be unlawful for a person to display false or misleading statements upon signs, or other public places, calculated to mislead the public as to anything sold, any services to be performed. The fact that any such sign or display shall contain language sufficient to mislead a reasonable and prudent person in reading it shall be prima facie evidence of a violation of this subsection by the persons displaying such sign, and/or person permitting same to be displayed at the residence, establishment or place of business.

i. Signs with the copy of "Grand Opening," "Going Out of Business," "Sale," "1/2 Price" and the like shall be classified as temporary signs regardless of construction.

j. Wind activated devices are prohibited with the following exception:

1. on premise commercial flags and pennants are permitted.

2. Non-commercial pennants and flags, not to exceed 32 sq. ft., flown on R zoned property.

3. It is the intent to allow flags and pennants as an integral part of the use at batting cages, miniature golf courses, and amusement parks with rides.

4. The appearance of the flag shall be maintained. Torn, faded or tattered flags and pennants as determined by the zoning department shall be immediately removed or replaced.

5. Any sign located or designed so as to intentionally or effectively deny any adjoining property owner reasonable visual access to an existing sign is prohibited.

6. Any private or business sign, except those for a driveway, loading zone and the like authorized by a public agency, which restricts or appears to reserve any portion of a public right-of-way and/or any public property for the exclusive or private use of any individual, tenant, client, guest or business is prohibited. This prohibition extends to all such signs, whether on public or private property.

k. Any other type or kind of sign which does not comply with the terms, conditions and provisions contained in this Ordinance is prohibited.

l. No portable or nonstructural signs shall be allowed except those permitted as temporary signs in this article. For purposes of this Ordinance, a sign shall be considered as nonstructural if it has no permanently mounted, self-supporting structure or is not an integral part of a building to which it is accessory.

m. No sign or advertising display shall be attached to or placed against the outside of a building in such a manner as to prevent egress through any door or window, nor shall any sign or advertising display obstruct or be attached to a fire escape.

n. Any sign or outdoor advertising display which contains statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.

o. Any sign or sign structure that obstructs the view of, or may be confused with a traffic directional/safety sign.

p. Any sign painted on or attached to trees, other natural features, utility poles or other man made object the principal purpose of which is not intended to support a sign.

q. Dilapidated signs.

r. Any sign which emits a sound, odor, or visible matter such as smoke or vapor.

14-6. Illumination

a. Illumination devices, such as but not limited to flood or spot lights shall be so placed and so shielded as to prevent the rays of illumination from being cast upon neighboring buildings or vehicles approaching from any direction.

b. All bare light bulbs or flood lights shall be directed and reflected toward the face of the sign.

c. No sign illumination system shall contain or utilize any beacon, spot, search, stroboscopic light, laser or reflector, which is visible from any public right-of-way or adjacent property, nor shall such lights be operated outside except by authorized public agencies. For amusement parks, beacon, spot, search or stroboscopic lights or reflectors are permitted. Should any light, such as laser, become a nuisance to motorists and/or aircraft or other property owners, then such light shall be immediately extinguished.

d. Signs within 100 feet of residential districts shall be shielded from casting glare into said district.

14-7. Nonconforming Signs

a. All signs or advertising structures located in districts where they are not permitted under the terms of these regulations are hereby declared to be nonconforming uses.

b. Should any sign become non-conforming, due to the passage of this Ordinance, extension of zoning jurisdiction, or other amendments of this Ordinance, the sign may continue to exist. However, the non-conforming sign shall not be replaced if removed, destroyed or damaged over fifty (50) percent of the sign replacement cost, except that it be replaced in conformity with this Ordinance.

c. Signs with blinking, flashing lights shall come into conformity within sixty (60) days of non-conformity and notification by the Zoning Administrator.

d. All non-conforming signs shall immediately come under the provisions and requirements of Section 14-2.2, Traffic Safety and 14-4, Maintenance.

e. Any legal nonconforming sign not otherwise regulated by this Ordinance may continue in operation and maintenance after the effective date of this Ordinance, provided that nonconforming signs shall not be:

NOTE

Refer to Section 14-4 d for exceptions.

1. Changed to or replaced with another nonconforming sign. This prohibition does not prevent the change of the printed matter information.

2. Structurally altered so as to extend their useful life.

3. Expanded.

4. Relocated.

5. Reestablished, reconstructed or replaced if the repair, replacement or construction exceeds fifty (50) percent of the sign structure value at the time of such damage or destruction of such sign.

6. Modified in any way that would increase the degree of nonconformity of such sign.

14-8. Signs Which do not Require a Permit

a. The following signs may be erected, hung, or placed without a permit from the Zoning Administrator and shall not be illuminated unless otherwise specified. These signs are not exempted from the safety, setback, or maintenance provisions of this article. The signs shall not be considered in determining the allowable number and size of signs on a premise.

b. Special event. Whether these signs are related to commercial enterprise (grand openings, clearance sales, sidewalk sales, etc.) or institutional (places of worship, schools, non-profit) festivals, etc:

1. These special event signs shall be limited to a maximum of twice within any 12 calendar months and may be displayed 45 days prior to the event. The signs must be removed from display within 5 days after the event. Failure to do so within time specified will cause the Town to remove them at the expense of the owner of the property so displayed. The sign must comply with all other applicable sections of this Ordinance and the following conditions;

2. "Open house" and "Garage sale,." The maximum area is three feet, and the maximum height above ground is four feet. Such signs are not permitted on other public or private property unless permitted elsewhere in this part. May be displayed 5 days prior to the event and removed at the close of the event.

3. Portable signs are allowed as temporary signs to

advertise any public, charitable, educational or religious event or function, sales promotions and the like provided they are located entirely on private property with the permission of the property owner. A signs do not exceed an area of 48 square feet and does not constitute a safety hazard.

4. Portable signs are intended to be readily relocated whether or not they are permanently attached to a building, structure or on the ground. The term includes signs on wheels or on portable structures, tent signs, A-frame signs and similar devices.

c. Permanent signs such as:

1. Street or road name signs, provided that the name does not conflict with the emergency E911 identification system.

2. "No trespassing," "No dumping," "No loitering," and similar signs not exceeding two square feet in area.

3. Religious symbols, commemorative plaques of recognized historical agencies or identification emblems of religious orders or historical agencies, provided that all such symbols, plaques and identification emblems shall be placed flat against a building.

4. The flying of individual, national, state, county, town, church or religious flags.

5. Public service signs may be displayed that identify public services or conveniences, such as rest rooms, telephones, state vehicle inspection, credit cards accepted, hours of operation, vacancies, trading stamps given, and trade association affiliations, provided that the total area of such signs displayed to any one street does not exceed four square feet per occupancy, and further provided that such signs shall be designed and erected inside the perimeter of a permitted sign or mounted flush

against a building or structure.

6. Pump signs shall be allowed on gasoline pumps so as to provide information to the public such as gasoline, octane rating, self-service, price and the like. These signs may be permitted as flat signs not to exceed three square feet in area per sign face (six square feet in aggregate per pump).

7. Commercial uses may have window signs in addition to otherwise permitted building mounted and freestanding signs. Said allowable occupancy shall not apply to the other permitted aggregate sign area for the subject lot.

8. Construction sign. One (1) construction site sign for each prime contractor not exceeding thirty-two (32) square feet erected on the site during the period of construction to announce the name of the owner or developer, contractor, architect, land planner, landscape architect, or engineer.

9. Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises and if residential, not to exceed (9) feet above the surface of the street, not having commercial connotations. These signs may be unlighted or provided with indirect illumination.

10. Flags and insignias of any government except where displayed in connection with commercial promotion.

11. Legal notices, identification, information, or directional signs erected or required by governmental bodies.

12. Integral decorative or architectural features of buildings, except letters, trademarks, moving lights, or moving parts.

13. Signs directing and guiding traffic and parking on private property, but bearing no advertising

matter.

14. Signs located within a building, not intended for view by persons located on the outside.

15. Real estate. A maximum of two (2) real estate signs per lot. Each sign may have two (2) faces, with a maximum area per face of eight (8) square feet and a maximum of five (5) feet above the surface of the street unless placed in a window.

16. Real estate acreage. A maximum of one (1) sign per one hundred (100) acres. The sign may have two (2) sides with a maximum of fifty (50) square feet per side and a maximum of ten (10) feet above the surface of the street.

14-8.1. **Setback Requirements**

a. No sign shall obstruct the view of motor vehicle operators entering a public roadway from any driveway, street or alley.

b. Signs located within fifty (50) feet from any road intersection or driveway, shall not exceed three (3) feet above the average grade, unless the bottom of the sign poster structure is at least seven (7) feet above the adjacent street pavement and the supporting structure(s) are designed so as not to obstruct the view of intersecting traffic. Landscaping shall be designed and maintained so as not to block the view of traffic.

c. The sign shall be set back at least five (5) feet from any side property line unless installed by a town official or NCDOT.

d. Temporary mobile signs are also included within this provision.

14-8.2. **Public Interest Signs Permitted in all Districts.**

a. Public signs. Signs of a noncommercial nature in

the interest of, erected by, or on the order of, a public officer in the performance of his public duty, such as directional, regulatory, warning and information signs for events of public interest such as a public hearing, rezoning announcement, or general election;

b. Project signs for soil conservation, 4-H and similar projects;

c. Boundary signs for zoning and subdivision jurisdiction boundaries;

d. Memorial signs, tablets, names of buildings, and date of erection when cut into any building surface structure or affixed flat against a structure;

e. Official signs, such as traffic control, parking restrictions, information, and notice and historical markers not to exceed twenty (20) square feet;

f. Recreation sponsor signs. Temporary signs that represent sponsors of recreation events and teams so long as the sign is installed for the benefit of the public within an activity park. The sign shall not be installed to attract attention to passersby outside of the park area. These signs are normally installed along the playing field fence, scoreboard, etc., and shall not exceed thirty two (32) square feet per sign.

g. Political campaign signs. Refer to North Carolina G.S. 136-32 for signs placed upon any highway. Signs announcing candidates seeking public political office and data pertaining thereto shall be permitted up to a total area of thirty-two (32) square feet. These signs shall be confined within private property and shall not encroach into the visibility triangle at street intersections. These signs may be displayed within 30 days of one stop early voting and ending ten (10) days after the election for which intended. In cases where a final election follows a primary election, those candidates who won in the primary election may continue to display their signs during the interim period and up to ten (10) days after the final election.

14-8.3. Roadside "Pick Your Own" Signs.

(G.S. 136-129) Roadside "Pick Your Own" signs are permitted along any state highway right-of-way that advertises the sale of any fruit or vegetable crop by the owner at a roadside stand or by having the purchaser to pick the crop on the property on which the crop is grown if:

a. The sign is no more than two feet long on any side;

b. The sign is located on the property owned or leased by grower where crop is grown;

c. The grower is also the seller; and

d. The sign is kept in place by the grower for no more than 30 days.

14-8.4. Signs on Vehicles.

Signs on a truck, bus, car or other motorized vehicle, trailers and equipment are allowed provided the following conditions are adhered to:

a. Primary purpose of such vehicle is not the display of signs.

b. Vehicle/equipment is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used in the daily function of the business to which such signs relate.

c. Vehicles and equipment are not used primarily as static displays advertising a product or service, not utilized as storage, shelter or distribution points for commercial products or services for general public.

d. During periods of inactivity such vehicle/equipment is not to remain off premise, parked or placed so that the sign(s) thereon are displayed to the traveling public.

e. Vehicles and equipment engaged in active construction projects on the premise, display of equipment and vehicles offered to the general public for rent or lease (such as rental trucks and cars) shall not be subject to this condition.

14-9. Signs Which Require a Permit

The following signs may be erected, hung, placed, or structurally altered only after a permit has been issued by the Zoning Administrator.

14-9.1. Temporary Signs

a. Temporary signs exceeding maximum measurements set forth in 14-8 require a permit.

b. The applicant for a temporary sign permit shall deposit a sum of one (1) dollar for each square foot of sign area with the Zoning Administrator to ensure proper removal of the temporary sign when its purpose ceases to exist or when the permit period expires, whichever is the shorter period of time. The deposit shall be returned in full upon removal of the sign by the applicant.

14-9.2. Temporary Subdivision and/or Development Project Signs.

A temporary sign declaring a group of lots, dwellings or occupancies within a development or event for rent, lease, or sale etc., shall be allowed subject to the following conditions:

a. One (1) such sign shall be permitted for each primary entrance of the subdivision being sold or leased.

b. The area of the said sign shall not exceed fifty (50) square feet.

c. The said sign shall not exceed a height of ten (10) feet above the level of the street.

d. The said sign shall be unlighted.

e. The said sign shall not interfere with the sight distance of pedestrians or motorists proceeding on or approaching adjacent streets.

f. The said sign may remain on the property as long as the property remains unsold or not leased or for one (1) year whichever period shall be lesser. However, the Planning Board shall have the authority to extend the time.

g. The Town Council may authorize temporary signs, banners, wind generated devices and the like for sales promotions and special events on a case by case basis.

14-9.3. Electronic Message/Changeable Copy Signs.

a. Signs which are capable of changing their poster information by means of mechanical or electrical switching may be permitted provided that the rate of poster information change is not more frequent than 30 seconds and the complete change must take place within five (5) seconds or less with no animation.



walls or structures and may be illuminated with flood lights or provided with interior illumination; and

b. For subdivisions with more than ten (10) lots, two (2) subdivision entrance signs per principal entrance are allowed. Each shall not exceed an area of 20 sq. ft. and not exceed a height above the road pavement of seven (7) feet. If installed within a divided intersection or island, it shall not be closer than 20 feet to the intersection of another street.



Example 1, Subdivision Sign

Illustrations of changeable copy signs, both manual and electronic.

b. The electronic sign shall be able to adjust its brightness to the ambient light regardless of the time of day.

c. The sign shall not scroll or be animated.

d. No more than one sign per street front of any premises shall contain changeable copy.

14-9.4. Permanent Subdivision Signs.

Permanent tract, subdivision or neighborhood signs situated at the street entrance or entrances to the appurtenant tract or neighborhood shall be permitted at the discretion of the Town Council with the recommendations of the Planning Board. The sign shall contain only the name of the said tract, neighborhood, or subdivision, and;

a. Shall consist of landscaped, decorative masonry



Example 2, Subdivision Sign

c. For subdivisions fewer than ten (10) lots, one (1)

subdivision identification sign is allowed. Such sign shall not exceed twenty (20) feet in area nor five (5) feet in height.

d. Multifamily structures and group developments are permitted development identification sign(s) not to exceed sixty four (64) square feet in area. Only one (1) freestanding sign per street frontage not to exceed ten (10) feet in height.

e. The above requirements may be varied by the Planning Board as to size and placement if the sign is incorporated within an approved subdivision entrance way, gatehouse or portal.

f. Hotels, motels, inns, and lodges shall be permitted business identification signs, which signs shall not exceed a combined area of one-hundred (100) square feet. Only one (1) free standing sign per street frontage is allowed not to exceed the maximum height of free standing signs in the district.

14-9.5. Barber Poles.

In addition to any other signs authorized by the provisions of this Ordinance, any barber shop shall be entitled to display a barber pole.

14-9.6. Wall Signs.

a. Each business is permitted a wall sign on the primary and secondary face of the building.

b. The basic allowance for wall signs shall be limited to two (2) square feet of sign area for each linear foot of building or tenant space for the primary elevation.



These pictures illustrate signs for a single tenant and are in scale with the tenant space and affords flexibility and opportunity for creative design



c. The basic allowance for wall signs shall be limited to one (1) square foot of sign area for each linear foot of building or tenant space for the secondary elevation.

d. Each tenant may have multiple wall signs so long as the sign area does not exceed the allowances established herein.

e. The wall sign(s) shall not be greater than eighty (80%) of the length of the tenant space or the length of the building frontage.

f. The area of any wall sign may be increased by twenty-five (25%) percent when the building is setback at least two hundred (200) feet from the public right-of-way and may be further increased by an additional twenty five (25%) for each additional

two-hundred (200) feet of setback, or fraction hereof, up to a maximum increase of one hundred (100%) percent.

g. No sign shall be displayed or extend above the roof line, or top of parapet of which said sign is located.

14-9.7. Sign Projection.

Projection signs are permitted in addition to the allowance of wall signs when designed and placed for the purpose of identifying the business along the same side of the street as the business they seek or under a continuous rain canopy projecting from the building. The sign shall not exceed eight (8) square feet per sign face. The bottom of the sign shall not extend below eight (8) feet above the sidewalk; the sign shall not exceed six (6) feet beyond the wall face of the building.



Sample projection signs



Sample under canopy signs

14-9.8. Free Standing Signs.

Free standing signs are permitted for each business or establishment on separate parcels in commercial and industrial zones. Their height, area and setback will vary depending on the maximum vehicle speed of the highway and/or street frontage location as set forth below:

14-9.8.1. Size and Height Computation

a. The sign area shall include the frame, if any, but shall not include:

1. A pole or other structural support unless such pole or structure support is internally illuminated or otherwise designed to constitute a display device, or a part of a display device.

Acceptable sign height along a 55mph Hwy. It is very visible and is not blocked by the parking or display lot.

Example of a low free standing sign that is improperly placed in a parking lot and is being blocked from view by vehicles.

2. Architectural features that are either part of the building or part of the freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complementing the site in general.



Example of a low free standing sign properly placed and is visible to passing vehicles

3. When two identical sign faces are placed back to back so both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of the larger of the two faces.

4. When the sign has more than two display surfaces, the area of the sign shall be the area of the largest display surfaces that are visible from any single direction.



The area of a sign, with more than two faces, would be calculated at the area of the largest rectangular plane of the panels that are visible from any single location.

14.9.8.2. Commercial Zone Along "Two Lane, 35 and 45 mph" Roads.

a. Maximum height of poster information is 12 feet measured above mean grade perpendicular to the primary street to which the sign is constructed. Where the sign property is higher than the primary highway or street, the sign may be twelve (12') feet above the property average grade. the Zoning Administrator shall have the authority to determine that additional sign height is warranted (above the lower grade) to assure that the sign has visibility equal to other signs along the street. Alternatively, the sign shall not be granted extra height by measuring the height from an "artificial" site feature that has raised the base of the sign substantially above the grade of the adjacent street.

b. Front or side yard setback, nearest portion of the sign to the property line, 0.0 feet

c. Maximum area of poster information is thirty two (32) square feet for a single establishment on a

parcel of land that is less than one hundred (100) linear feet of road frontage. The same sign may be enlarged by eight (8) square feet for each additional establishment to a maximum of sixty four (64) square feet of poster information. The height may be increased by two (2) feet if the additional thirty two (32) square feet is utilized.

d. The maximum area of the sign on a parcel of land larger than 100 linear feet of road frontage is fifty (50) square feet which may be enlarged by eight (8) square feet for each establishment to a maximum of sixty four (64) square feet.

The height may be increased by two (2) feet if the additional fourteen (14) square feet is utilized.

14.9.8.3. Commercial Zone Along a 55 MPH Road.

a. Maximum height of poster information is sixteen (16) feet above mean grade measured perpendicular to the primary street to which the sign is constructed. Where the sign property is higher than the primary highway or street, the sign may be sixteen (16') feet above the property average grade. the Zoning Administrator shall have the authority to determine that additional sign height is warranted (above the lower grade) to assure that the sign has visibility equal to other signs along the street. Alternatively, the sign shall not be granted extra height by measuring the height from an "artificial" site feature that has raised the base of the sign substantially above the grade of the adjacent street.

b. Front or side yard setback, nearest portion of the sign to the property line, 0.0 feet.

c. Maximum area of poster information is fifty (50) square feet for a single establishment on a parcel of land that is less than one hundred (100) linear feet of road frontage. The same sign may be enlarged by eight (8) square feet for each additional establishment to a maximum of eighty two (82) square feet of poster information. The height may be

increased by two (2) feet if the additional thirty two (32) square feet is utilized.

d. The maximum area of the sign on a parcel of land larger than 100 linear feet of road frontage is sixty four (64) square feet which may be enlarged by eight (8) square feet for each additional establishment to a maximum of ninety six (96) square feet. The height may be increased by two (2) feet if the additional thirty two (32) square feet is utilized.

14-9.8.4. Shopping Centers

a. Shopping Center signage is preferred to be approved along with site plan review. A shopping center is defined for this part as five (5) or more commercial establishments on a parcel of land.

b. All free standing signs, including those for out-parcels shall be consolidated to minimize the number and clutter of free standing signs.

c. Shopping centers with more than 300 linear feet of road frontage may have more than one (1) free standing sign, provided that they are spaced at least one hundred (100) feet apart along the road measured from the center of the signs.

d. These additional signs shall not exceed sixty four (64) square feet of poster information per side.

e. Shopping centers that front US Highway 70 may have one monument or free standing sign that may contain multiple poster panels for primary and subordinate establishments.

f. If the sign is located within 50 feet of the entrance drive way, it shall be setback at least 7 feet from the front property line otherwise, the sign may be located up to the property line.

g. If the sign is located within 50 feet of the entrance drive way intersection of the primary street, the bottom of the sign structure shall be no closer than 7

feet above the ground. and the sign support post or poles shall not obstruct the view of on-coming traffic along the primary street. Landscaping shall be maintained so as not to exceed 3 feet high and not to obstruct the view of on-coming traffic.

h. This sign may be a monument type if located further than 50 feet from the entrance intersection so long as not to obstruct the view of on-coming traffic along the primary street.

i. For shopping centers that are larger than 50,000 square feet in building area, the free standing sign may not exceed 196 square feet in poster area. The allowable area of one (1) free standing sign may be computed as one (1) square foot per linear foot or principal footage and shall not exceed three hundred (300) square feet, except for the larger commercial centers with two (2) freestanding signs as referenced above. Allowable square footage for combined free standing signs shall not exceed three hundred (300) square feet.

j. For shopping centers equal to or less than 50,000 square feet in building area, the free standing sign may not exceed 132 square feet in poster area.

14-9.8.5. Industrial Park Sign.

a. For an industrial park containing ten (10) or more acres of land area, one (1) park identification sign for each principal entrance or frontage not to exceed two (2) faces neither of which shall exceed one hundred (100) square feet of surface area. Parks less than 10 acres may display a sign not larger than 32 sq. ft.

b. Each establishment may display signs such as permitted on commercial establishments.

14-9.8.6. Public Direction or Information Sign.

a. Direction or information signs of a public or quasi-public nature shall not exceed twelve (12) square

feet in area.

b. These non-commercial signs shall only be permitted along a thoroughfare and on private property.

c. Such signs shall only be used for the following purposes:

1. Identification signs, such as the name or location of the Town, hospital, community center, public or private school, church, synagogue, or other place of worship. This type sign may be illuminated.

2. Organizational signs, such as the name of a place of meeting or an official or civic body such as the Chamber of Commerce, service club or fraternal organization. This type of sign may be illuminated.

3. Preferred truck route to an industrial or commercial complex, or similar purpose.

14-9.8.7. Special Use Sign:

Contemporaneous with or subsequent to the granting of a special use permit, the Board of Adjustment may authorize identification signs appurtenant to the special use and may impose additional restrictions on their size, height, shape, color, lighting and location. the Board shall not authorize a sign that exceeds the requirements of the use if it were located in a permitted use zone elsewhere in this article.

ARTICLE XV

RESERVED FOR FUTURE CODIFICATION

ARTICLE XVI**CONDITIONAL USE DISTRICTS (CUD) AND
PLANNED UNIT DEVELOPMENTS (PUD)****16-1 Authorization (GS160A-382) and General
Information**

a. the Town Council may, upon the review and recommendation of the Planning Board, rezone a parcel of land to a Conditional Use District and issue a Conditional Use Permit for Planned Unit Developments in accordance with the procedures and development standards specified in this Article for the requested use.

b. Application. Only the property owner(s) of all of the property to be included in the district shall apply for rezoning to a Conditional Use District. The owner(s) may specify the use(s) of the property and shall propose conditions to ensure compatibility between the development and surrounding neighborhood. The application shall include a sketch plan as specified in this chapter and may include any other information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property.

c. Statement of reasonableness: (GS 160A-382): The applicant (developer) shall provide a statement in the application analyzing the reasonableness of the proposed conditional use zoning.

d. Other Regulations Apply: Within a Conditional Use District, all requirements of any corresponding general zoning district, and all other requirements of this Ordinance, shall apply except to the extent that the approved conditions are more restrictive than those requirements.

e. Conditions: In a Conditional Use District, conditions may specify the location on the property

of the proposed use(s); the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways, and access streets; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of rights-of-way and other such matters as the applicant may propose as condition upon the request.

f. Compliance With Approved Plan: No permit shall be issued for any development activity within a Conditional Use District except in accordance with the approved Planned Unit Development Preliminary Plat.

g. Violation of Conditions: Any violation of a condition in an approved Conditional Use District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such condition shall be deemed to be the same type violation as the use of a property for a use not permitted under the district regulations, for the same reason that any use permitted in a Conditional Use District is permitted only subject to the specified conditions.

h. Cancellation of Site Plan: If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, the approval of the Conditional Use District Site Plan shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

i. Whenever the Town Council shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions, upon which such permit was granted are not complied with, the council shall have authority to rescind said permit and allow full opportunities for a hearing.

j. Processing Application: Applications for Conditional Use Districts shall be considered, and voted upon in the same procedure as that required of Zoning Map Amendments. No Conditional Use Permit shall be approved prior to approval of the Conditional Use District to which it applies.

NOTE:

The approval of a Conditional Use District Planned Unit Development is a two-part process considered simultaneously. However a separate vote by the Council is required for each part. If after deliberation on the Preliminary Plat for the proposed development project the Council is not ready to vote in favor of the plat, the Council should not vote in favor of the Conditional Use District.

k. Council Deliberation Procedures: Before the Council considers an application for a Conditional Use District Planned Unit Development, the Council shall hold a public hearing in the same manner as the Board of Adjustment. The proceedings shall be conducted in a quasi-judicial decision-making manner.

l. At the public hearing, anyone wishing to be heard shall be sworn. Only factual testimony shall be heard. No innuendo, hearsay, or remarks that are not substantiated by competent evidence shall be used for the decision making of the Council.

m. Council Participation: In accordance with GS 160A-388, members of Council shall not participate in or vote on any matter where they have a fixed opinion on the case prior to the hearing, they have undisclosed ex parte communications, have close family, business, or association ties with an affected person, or have a financial interest in the outcome of the case, when conducting such quasi-judicial deliberations.

n. Voting: (GS 160A-381) The Planning Board and the Town Council need only a simple majority vote in order to approve a Conditional Use Permit. Vacant seats and disqualified members are not counted in

computing required majority votes.

o. Conditions Perpetually Binding: Any conditions associated with a Conditional Use District and so authorized shall be perpetually binding upon the property included in such Conditional Use District unless subsequently changed or amended as provided for in this Article.

p. Greater Restrictions: In approving a Conditional Use District, the Planning Board and Town Council, upon request of the applicant, may impose only more restrictive requirements upon such district as it may deem necessary in order that the purpose and intent of this Ordinance be served.

q. Submission of Site Plans: Conditional Use District Site Plans for any development made pursuant to any Conditional Use District shall be submitted for review in the same manner as other development plans required by this Ordinance and the Subdivision Regulations as appropriate.

r. Minor Modifications: The Planning Board may approve minor modifications of the conditions in the Conditional Use District Site Plan where such modifications will result in equal or better performance, provided that the objectives and purpose of the requirements and conditions of the Conditional Use District are maintained.

s. Amendment of Permit Conditions: the Town Council may change or amend a Conditional Use District in the same procedure as that required for the original approval of the Conditional Use District.

t. Timing of Amendment Proposal: No proposal to change or amend any Conditional Use District shall be considered within one (1) year after the date of the original approval of such district, or within one (1) year after the hearing of any previous proposal to change or amend such district unless the Council passes a resolution authorizing such consideration of a lesser time limit.

16-1.1 Planned Unit Developments, Generally.

a. Intent. Within districts now existing or which may hereafter be created, it is intended to permit and encourage, on application and approval of detailed development plans, establishment of new Planned Unit Developments for specified purposes where tracts of land suitable in location, area and character are to be planned and developed as a whole and in a unified manner. Suitability of such tracts for Planned Unit Development purposes shall be determined primarily by reference to the Newport Land Use Plan.

b. Planned Unit Developments may include but are not limited to Industrial, Commercial and/or Residential or a combination of uses.

16.1.2 Planned Unit Development-Residential (PD-R)

a. Planned Unit Development-Residential projects will permit flexibility to utilize new residential development concepts, such as "clustering" and incorporating usable open space into neighborhoods. The PD-R project will allow builders and developers to put imaginative design elements into their housing developments. This approach to residential land development will help introduce variety into neighborhoods, cope with rising costs of land, engineering, and construction, minimize expenditures of public funds for services and maintenance, and promote the effective investment of community resources.

b. Allowance of PD-R projects means departing from the "traditional" approach to zoning and subdivision regulations by waiving certain use, setback, height, and minimum lot size requirements of the residential zoning district in this Ordinance.

c. This section is intended to provide the method by which tracts of land may be developed as a unit

rather than on a lot-by-lot basis as provided in the zoning ordinance. It is intended to provide a maximum of design freedom by permitting the developer an opportunity to more fully utilize the physical characteristics of the site through the reduction of lot sizes, yards, height and bulk restrictions and the planned mixing of uses. Through the requirement of the development plan, it is the intention that property under the PUD title will be developed through a unified design providing continuity among the various elements causing a better environment. Increased residential densities may be permitted if such increases do not violate other ordinances. This section should not be used as a means of evading the ordinances of the Town and should be employed where there are mutual benefits to both the developer and the community.

16-1.3 Relation of Planned Unit Development Regulations to General Zoning and Other Regulations

The provisions which follow in this Section shall apply generally to the initiation and regulation of all Planned Unit Developments. Where there are conflicts between these regulations and general zoning, subdivision or other regulations or requirements, these regulations shall apply unless the Town Council shall find, in a particular case:

a. That provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision or other regulations or requirements, or

b. That the actions, designs or solutions proposed by the applicant, although not literally in accord with these special regulations or general regulations, satisfy public purposes to at least an equivalent degree. It is specifically provided, that where dwelling densities and other development standards have been established by these regulations the Town shall not act in a particular case to alter said provisions.

c. Design standards such as maximum building height above thirty five (35) feet and density more than fourteen (14) units per acre may be approved by the Planning Board and Town Council.

d. Development may be in phases. When a Planned Unit Development is to be developed in phases, the Preliminary Plat shall be submitted for the entire development. A final plat may be submitted for each phase.

16-2 Application Requirements for Planned Unit Development Conditional Use Permits

a. Planned Unit Developments shall be regulated and administrated as a Conditional Use under the provisions of this Article. The Applicant for a Conditional Use Permit shall first submit a sketch plan of the proposed development prior to the Preliminary Plat.

b. The intent of the Sketch Plan review and approval process is to enable the developer to present a "concept" of the proposed project to the Planning Board and Town Council without going through the expense of detailed engineering cost, environmental permitting, etc. The concept may be out of the ordinary and not comply with regimented development standards provided for in the zoning ordinance and subdivision regulations. The process enables the Planning Department to negotiate conditions of the permit with the developer. The developer must agree to and initiate all conditions of the Conditional Use Permit.

c. Approval of the Sketch Plan by the Town Council will incur to the developer Vested Right as permitted elsewhere in the Zoning Ordinance.

d. Application procedures and requirements for obtaining Conditional Use Permits for Planned Unit Developments shall be basically the same as the review procedures and requirements established in the Subdivision Regulations for subdivision plan and

plat reviews, except as herein provided.

e. The Planning Board and Town Council shall review the Sketch Plan for the proposed Planned Unit Development for conformity with the Newport Land Use Plan. The Planned Unit Development shall provide appropriate relationships between uses around the boundaries and uses within the Planned Unit Development so as to ensure that no property will be adversely affected.

f. The approved Sketch, Preliminary, and Final Site Plans, shall be the basis for control of land development within Planned Unit Developments.

16-3 Sketch Plan Presentation

16-3.1 Applicant Action, Sketch Plan

a. Submitting a Sketch Plan for review requires an application in the manner prescribed by the Planning Department and a fee.

b. The developer shall first submit and discuss the "project concept" Sketch Plan with the Planning Department who shall staff the plan to the Planning Board for review at a regular scheduled meeting.

c. The Sketch Plan shall be in the following detail and manner when submitted to the Planning Board:

1. The Sketch Plan shall be drawn at a scale that lends itself to adequate detail and generally not on a scale larger than one (1) inch to one hundred (100) feet.

2. The Applicant shall submit at least 10 copies of the drawings.

3. The Sketch Plan shall show existing and tentative street right-of-way layout, easements, lot arrangements, existing structures, water courses, site dedication or proposed dedication for parks, schools, churches or other public and semi-private

uses and all other things as required by Subsection 16-4.2, e. 1 through 6 and 8 through 15.

4. Data shall be given regarding acreage in the total tract, minimum lot size, average lot size, and acreage left in open space or other uses.

5. The Sketch Plan shall incorporate a vicinity map showing the relationship between the development and the surrounding area.

6. The plan may show a preliminary architectural design sketch of how a typical building will look after completion; plus a preliminary architectural design sketch of how the whole project will look after completion, or a photographic display of a similar completed development that the applicant has already been involved with, or equivalent information as allowed by the Planning Board.

7. The Sketch Plan shall be reviewed by the Zoning Administrator for general compliance with this chapter prior to submittal to the Planning Board.

8. The developer or his representative shall discuss plans for the proposed development with the Zoning Administrator who shall advise the developer as to the regulations which pertain to the proposed development, and the procedure the developer shall follow in preparing and submitting the development plats. Such advice and discussion shall not relieve the developer from the obligation to fully comply with this Ordinance.

16-3.2 The Sketch Plan Shall be Reviewed by the Planning Board.

a. the Zoning Administrator may make recommendations to the Planning Board.

b. The Planning Board shall discuss with the developer changes deemed advisable, if any, and the kind and extent of improvements to be made by him. The Planning Board may require the developer to revise the plan before it is submitted to the Town

Council. The Planning Board shall present its recommendations to the Town Council within 70 days from the meeting at which the Sketch Plan is first scheduled. Failure to do so shall be considered a favorable (no vote) approval by the Planning Board.

c. The developer or his designated representative shall come to the Planning Board meeting to assist the Board in reviewing the Sketch Plan.

d. Before recommending approval of a Sketch Plan, the Planning Board may make additional requirements concerning but not limited to: the limitations of uses, unit densities, landscaping, paving the locations of access ways and taking into consideration the character of the surrounding area so as to provide proper transition of land uses that will fit into the Town's Land Use Plan.

e. After Planning Board approval, the project shall be submitted to Town Council for its review.

16-3.3 Town Council Review of Sketch Plan.

a. The Planning Board shall present the Sketch Plan along with its recommendations to the Town Council who shall hold a public hearing prior to any deliberation on the application under the same rules as the Board of Adjustment.

b. Following said hearing, the Council may deliberate and approve, approve conditionally or disapprove the Sketch Plan.

c. If the Sketch Plan is approved, approval shall be noted on at least three prints of the plan by the Town Council. One print of the plan shall be transmitted to the developer and the second approved print retained by the Town Clerk. The third plan shall be retained by the Planning Department.

d. the Town Council may require the developer to submit a revised Sketch Plan including the

recommended changes before approving the plan.

e. Upon approval of the Sketch Plan, the developer/owner can proceed with all engineering and environmental permit applications for any state, federal or local public utilities as required for the development and proceed with detailed and complete Preliminary Plat design and submittal. Construction on the development can not proceed without Preliminary Plat approval.

f. When a Sketch Plan is disapproved, the Town Council shall specify the reasons for such action in writing. One copy of such reasons and one print shall be retained by the Town Council, one print of the plan with the reasons for disapproval shall be given to the developer and the Planning Board.

16-4 Preliminary Plat Presentation

16-4.1 Review of the Preliminary Plat by the Zoning Administrator

a. the Zoning Administrator shall review the plat with the developer and Town Staff for compliance with all Town Ordinances, Regulations and approved requirements of the approved Sketch Plan. It shall be the duty of the Zoning Administrator to insure, when appropriate, that:

1. The District Highway Engineer,
2. The County Health Director,
3. Town Fire Chief,
4. Town Public Works Dept,
5. The School Superintendent,
6. Other agencies and officials, all have an

opportunity to review and make recommendations concerning the proposed Preliminary Plat before approval is given by the Planning Board.

b. It shall be the responsibility of the developer to acquire all necessary permits from the county and/or state agencies such as, but not limited to:

1. Improvements permit for septic tanks;

2. Erosion control plan;
3. Storm water permit;
4. Wetlands permit;
5. Water and sewer extensions.

c. The developer shall provide the Zoning Administrator with copies of all permit applications and permits issued by other agencies for the development project.

16-4.2 Preliminary Plat Content

a. The Preliminary Plat shall be prepared by a design professional to a scale that lends itself to adequate detail and generally no larger scale than one (1) inch to one hundred (100) feet.

b. The Preliminary Plat shall show the information set forth in the following:

1. The location of existing and platted property, buildings, streets, railroads, bridges, culverts, water courses, transmission lines, sewers, drainpipes, water mains, other public utility easements and town and county boundary lines.
2. Boundaries of tracts shown with bearings, distances and closures, North arrow, and vicinity map.
3. Marsh, swamp, flood way, flood plain, topography at five foot intervals, and any other physical conditions affecting the site. In extremely flat terrain the Planning Board may require lesser intervals to and including one (1) foot.
4. Existing zoning classification both of the land to be subdivided and of adjacent land.
5. Names of adjacent property owners and subdivisions.
6. Proposed streets, street names, rights-of-way, easements, pavement widths, and approximate

grades.

7. Locations of proposed utility lines (storm and sanitary sewer, water, gas, electric and telephone) showing connections to existing supply and disposal systems or planned supply and disposal systems. These utility drawings shall be annotated on a separate page of the plan along with a Grading Plan.

8. The location, widths, and purposes of other proposed rights-of-way or easements.

9. Proposed areas for parks, school sites and public open spaces.

10. Proposed lot lines, lot and block numbers and lot dimensions.

11. Proposed minimum building setback lines.

12. Title, date, magnetic and true north arrows, and graphic scale.

13. Name of owner and surveyor or engineer.

14. Data shall be given regarding acreage in total tract to be subdivided or developed, minimum lot size, total number of lots, and lineal feet in streets.

15. A location map showing the relationship between the Planned Unit Development and the entire community shall also be submitted. This map shall be placed as an inset on the Preliminary Plat.

16. A copy of the restrictive or protective covenants applicable to the Planned Unit Development, if any, shall be submitted to the Planning Board.

17. Proposed plans for land clearance in the Planned Unit Development.

18. Public water supply system plans, including the layout and details of mains.

19. Copies of any declarations to be recorded

pursuant to the North Carolina Unit Ownership Act.

20. Any other information required by the Planning Board.

16-4.3 Additional Accessory Uses May Include:

a. Signs in compliance with Article XIV;

b. Private community buildings or clubs for the use of the PD-R project;

c. Project management or sales office;

d. Home occupations;

e. Uses customarily subordinate and accessory to the above permitted uses.

16-4.4 Development Standards

a. Subject to provisions set forth herein, PD-R project sites shall not be less than five (5) contiguous acres.

b. Housing density per acre is determined by the Planning Board on a case by case basis.

c. Net acreage is determined by subtracting the area in street rights-of-way, private street, and parking areas from the gross total acreage.

d. Building height is determined by the Planning Board on a case by case basis.

e. The maximum land coverage by buildings shall not exceed forty percent (40%) gross area.

f. Principal buildings established as part of a PD-R project shall be separated by a minimum of thirty (30) feet.

g. Dwelling unit lots for single-family and two-family units need not abut a public street provided that all portions of every dwelling shall be located within

three hundred (300) feet of a public street that furnishes direct access to the property. Access to each dwelling unit shall be provided via either a public right-of-way or a private vehicular or pedestrian way owned either by the individual lot owner in fee simple or in common ownership within residents of the development.

h. Walkways shall be paved to form a logical, safe, and convenient system for pedestrian access to all dwelling units, project facilities, and principal off-site pedestrian destinations. Walkways to be used by substantial numbers of children as play areas or routes to school or other destinations, shall be so located and safeguarded as to minimize contact with normal automotive traffic.

i. Any building established as a part of a PD-R project which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to such vehicles by a paved driveway having a roadbed width of not less than twenty (20) feet, exclusive of parking spaces.

j. All buildings and structures established as a part of a PD-R project shall set back not less than twenty (20) feet from any side or rear property line and must comply with the front yard setback established for the district in which located.

k. No dwelling structure established as a part of a housing project shall be situated on a lot so as to face the rear of another dwelling structure within the development or on adjoining property.

l. All off-street parking and loading facilities for uses established as part of a PD-R project shall conform to requirements and design standards of Article XIII of this Ordinance.

m. PD-R projects shall provide for underground installation of utilities, including telephone and power in both public and private rights-of way, except when conditions not reasonably within the control of the

developer make this requirement impractical.

n. Preservation of Noteworthy Natural Features. In all PD-R projects efforts shall be made to preserve historic sites, scenic points, large trees and other desirable natural growths, water courses and other water areas, and other features worthy of preservation, either as portions of public sites and open spaces, or in such other form as to provide amenity to the neighborhood.

o. Trees and other desirable natural growth located in public or private right-of-way or public or private easements shall not be removed unless such removal is necessary for the installation of utilities or drainage structures or for other purposes in the public interest.

p. Such removal may be prohibited if the amenity of adjacent property or the amenity of the general neighborhood is adversely affected.

q. Common open space shall be provided in amounts not less than 30 percent of the net area.

r. In addition to the requirements set forth above, the following shall apply, insofar as reasonably practicable:

1. Recreation areas intended for general use for pedestrian access shall be accessible from dwellings without crossing streets or with a minimum of street crossing.

2. Walkways and recreational areas shall form an interconnected system serving as routes to schools, churches and other major pedestrian destinations.

3. The recreation and walkway system shall be located in block interiors and oriented away from exposure to automotive traffic.

4. All common open space and recreation areas and facilities shall be preserved for their intended

purposes as expressed in the final site plan. The developer shall choose one or a combination of the following methods of administering said areas.

a. Public dedication to the Town; this method is subject to formal acceptance by the Town.

b. Establishment of a non-profit association, corporation, trust or foundation of all individuals or corporations owning residential property within the plan development to insure the maintenance of said area.

c. Retention of ownership, control, and maintenance of said areas by the developer, subject to approval of the Town Council.

5. All open space and recreation areas and facilities not dedicated to the public shall be made subject to restrictive covenants running with the said land thereafter restricting its use as declared in the Final Plat. Such restrictions shall be for the benefit of all present or future property owners who shall be entitled to the use of such open space under said final site plan.

6. All common open space, as well as recreational areas and facilities, shall be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.

7. If the developer elects to administer common open space and recreation area facilities through an association, non-profit corporation, trust, foundation, said organization shall conform to the following requirements;

a. The developer must establish the organization prior to the sale of any lot.

b. The organization shall manage all open space, and recreation and cultural facilities that are not

dedicated to the public, shall provide for the maintenance, administration, and operation of said land and improvements and any other land within the PD-R project publicly or privately owned, and shall secure adequate liability insurance on the land.

16-4.5 Supplementary Materials to be Provided.

a. Condominium projects or similar cooperative ownership projects: a copy of the proposed declaration of by-laws and covenants and method of changing out-dated by-laws and covenants;

b. A copy of the proposed easements for the common walls and a copy of the proposed deed for sale of a unit for town houses or row houses in condominium projects.

c. A declaration by the developer or owner of the provisions for maintaining the development for rental or leased units or buildings.

16-4.6 Review and Approval of Preliminary Plat by the Planning Board.

a. A request for consideration of the Preliminary Plat by the Planning Board shall be made by the developer in writing along with at least ten (10) copies of the Preliminary Plat and any supplemental material to the Planning Department at least 15 days prior to the scheduled Planning Board meeting at which said Plat is to be considered.

b. The Planning Board Chairman shall schedule the date for consideration and cause the notification to the developer of such. The date of consideration shall be no greater than seventy (70) calendar days from the date of receipt of the letter of request.

c. The developer or his designated representative shall come to the Planning Board meeting to assist the Board in reviewing the Preliminary Plat.

d. the Zoning Administrator shall advise and report

recommendations to the Planning Board received from other Town, County and State agencies and officials reviewing the plat.

e. The Planning Board shall discuss the plat with the developer, changes deemed advisable, if any, and the kind and extent of improvements to be made by the developer.

f. Before recommending approval of a Preliminary Plat, the Planning Board may make additional requirements concerning but not limited to: The limitations of uses, unit densities, landscaping, paving the locations of access ways and taking into consideration the character of the surrounding area so as to provide proper transition of land uses that will fit into the Town's Land Use Plan.

g. The Preliminary Plat shall be checked for compliance of design standards and other requirements of this Ordinance and the Newport Subdivision Regulations by the Zoning Administrator.

h. The Planning Board shall take action on the plat within 70 days from the meeting at which the Preliminary Plat is first presented. Failure to do so shall be considered a favorable (no vote) approval by the Planning Board.

i. The Planning Board shall approve, conditionally approve or disapprove or refer the plat back to the applicant for revisions of the Preliminary Plat or defer action for a period not to exceed two regular scheduled meetings.

j. If the Preliminary Plat is approved, approval shall be noted on three (3) copies of the plat by the Planning Board Chairman. One of these copies shall be transmitted to the developer, one retained and placed on file by the Zoning Administrator, and one transmitted to the Town Council.

k. In case of conditional approval, the reasons and the conditions to be met shall be specified in writing.

One copy of such reasons and conditions shall be filed with the copy of the plat retained by the Zoning Administrator, one to Town Council and another shall be given to the developer. The Planning Board may require the developer to submit a revised Preliminary Plat with all recommended changes made before approving the plat.

l. When a Preliminary Plat is disapproved, the Planning Board shall specify the reasons for such action in writing. One copy of such reasons shall be retained and placed on file by the Zoning Administrator and one copy shall be given to the developer. If the Preliminary Plat is disapproved, the developer may make the recommended changes and submit a revised Preliminary Plat.

m. Upon approval of the Preliminary Plat by the Planning Board, the plat along with all requirements shall be transmitted to the Town Council for its review and approval.

16-4.7 Review and Approval of Preliminary Plat by the Town Council.

a. The Preliminary Plat along with the Zoning Amendment and the Conditional Use Permit shall be reviewed and approved by the Town Council. Particular attention shall be paid to public utilities and facilities.

b. Where public utilities are to be extended to the Town or dedicated to the Town, the Town's consulting engineer may review at councils request, and at the developer's expense, all proposed public utilities and make recommendations to the Town Council

c. the Town Council may approve, approve conditionally, disapprove or make changes to the Preliminary Plat or the Town Council may refer the Preliminary Plat back to the Planning Board with recommendations for reconsideration.

d. Upon approval of the Preliminary Plat by the Town Council, the developer may proceed with the preparation of the Final Plat, and the installation, construction or arrangements for required improvements in accordance with the Preliminary Plat as approved and in accordance with the requirements of this Ordinance.

e. In case of conditional approval, the reasons and the conditions to be met shall be specified in writing by the Town Council. One copy of such reasons and conditions shall be filed with the copy of the plat retained by the Zoning Administrator, one to Town Council and another shall be given to the developer. the Town Council may require the developer to submit a revised Preliminary Plat with all recommended changes made before approving the plat.

f. After all conditions have been satisfied, the developer shall submit to and request a review by the Zoning Administrator. After satisfactory review, the Zoning Administrator shall issue a letter authorizing construction of the development to the developer. the Zoning Administrator will transmit a copy of the letter of authorization to the Town Council.

g. When a Preliminary Plat is disapproved, the Town Council shall specify the reasons for such action in writing. One copy of such reasons shall be retained and placed on file by the Town Council, Planning Board, Zoning Administrator and one copy shall be given to the developer. If the Preliminary Plat is disapproved, the developer may make the recommended changes and submit a revised Preliminary Plat.

16-5 Rezoning to a Conditional Use District and Issuance of the Conditional Use Permit for the Planned Unit Development (PUD).

a. Upon approval of the Preliminary Plat and the conditions of the Planned Unit Development, the

Council will vote to approve the rezoning of the parcel of land under consideration to a zoning classification of Conditional Use Zone and then vote to issue the Conditional Use Permit. Both issues must pass with at least a simple majority vote for the Conditional Use District and Conditional Use Permit to be approved. (160A-381 (c)). The effective date of the Conditional Use Permit will be the date of Final Plat approval for Situation (1) paragraph b. The effective date for the CUP for situation 2 paragraph c, shall be at Preliminary Plat approval.

b. Situation (1). If the project incorporates the division of land to be sold separately, or public utilities such as roads, water and sewer etc., to be dedicated to the public, the developer shall follow the procedures for guarantees specified in the Subdivision Regulations and Section 16-5 of this part prior to issuance of Building Permits and Certificates of Occupancy.

c. Situation (2). If the project is privately owned with no dedication to the public involved such as an apartment complex, commercial shopping center, or industrial complex, then permits can be issued at the time of PUD approval and Certificate of Occupancies issued administratively by the Planning Department. No further action of the Planning Board or Town Council is required.

d. An "As-built" plat for projects, such as Situation (2), may be required that contains substantially the same information as a Final Plat to be part of the Conditional Use Permit.

16-6 Final Plat Content

In situations where a final plat is required, the following information is required.

The Final Plat shall show the following information:

1. The boundary lines and names of all streets and roads.

2. Lot lines, lot dimensions, and block numbers.
3. Minimum building setback lines.
4. Reservations, easements, alleys and any roads to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
5. Sufficient data to determine readily and to be easily reproduced on the ground the location, bearing and length of every street line, lot line, boundary line (with error of closure), block line and building line, whether curved or straight, and including true and magnetic north arrows. This should include the radius, center angles, point of tangency, tangent distance and arcs and cords of all curved property lines.
6. All dimensions should be to the nearest one-tenth (1/10) of a foot and angles to the nearest minute.
7. Accurate location and description of all monuments and markers.
8. All names and locations of adjoining subdivisions and streets and the location and ownership of adjoining subdivided property.
9. Title, date, name, and location of subdivision and graphic scale.
10. Name of developer and registered surveyor, or registered engineer, as applicable. No Plat shall be accepted without the name of the registered surveyor or engineer.
11. Utility layouts for water, gas, sanitary sewer, storm drainage and electrical and telephone lines. If not served with municipal sewer, the plat shall show by number the appropriate health department symbols which lot(s) are not suitable or approved for septic tanks. Such marking shall be of the type required by the Division of Environmental Health.
12. Flood way and/or flood plain, both "AE" and "Shaded X."
13. The plans for storm water drainage systems, sedimentation controls as required by the Sedimentation Control Ordinance and utility layouts (sewer, water, gas, and electricity) showing connections to existing systems or plans for individual water supply and septic tanks with appropriate percolation test results.
14. Parks, school sites, or public open spaces, if any.
15. Acreage in subdivision.
16. Acreage in park and other use land.
17. Acreage lot size, if any.
18. Total number of lots, if any.
19. Lineal feet in streets.
20. Name of owner plus the surveyor and lot planner, if any.
21. Number of units and unit density by neighborhoods.
22. Reservations, easements, alleys, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations.
23. Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, whether curved or straight. This should include the radius, central angle, and tangent distance for the center line of curved streets and curved property lines that are not the boundaries of curved streets.
24. All dimensions should be to the nearest one-tenth (1/10) foot and angles to the nearest minutes.

25. Accurate locations and descriptions of all monuments and markers.

26. The names and locations of adjoining subdivisions and streets and the location and ownership of joining property.

27. Title, date, name and location of subdivision, graphic scale, and true north point.

16-6.1 **Supplementary Materials**

a. A copy of the restrictive or protective covenants in the project if any shall be submitted with the Final Plat.

b. Water mains and lines (with authorization from the appropriate agency).

c. Sanitary sewerage (with authorization from the appropriate agency).

d. Gas mains and lines.

e. Storm drainage and sedimentation controls.

f. Electrical and telephone lines.

g. Street improvements and sidewalks

16-6.2 **Certification Required**

a. Certificate of Ownership and Dedication.

b. Certificate of Accuracy.

c. Certificate of Approval of Water Supply and Sewage Disposal System.

d. Certificate of Approval of Streets and Utilities.

e. Certificate of Approval of Recording.

f. Certificate of Approval and Acceptance of Dedications.

g. Reference to any separate instruments, including restrictive covenants, filed in the Register of Deeds Office with direct affect on the land being subdivided.

16-7 **Final Plat Review and Approval By Town Council**

1a. Upon receipt of the Final Plat by the Zoning Administrator, the Town Council shall either approve or disapprove said plat, in the same manner as the Subdivision process. The final plat must be received by the Zoning Administrator not less than 20 days before Council action.

b. Final Plat review and approval by the Planning Board is not required except when required by Town Council on a case by case basis.

c. the Zoning Administrator shall review the plat for requirements specified in this part and forward it to Council.

d. The Developer shall file the approved Final Plat with the Register of Deeds within ninety (90) days after the approval of the Town Council or such approval shall be null & void.

e. If the Town Council should disapprove the Final Plat, the reasons for such action shall be stated in writing. One (1) copy of such reasons with the original drawing and remaining prints of the proposed Planned Development shall be transmitted to the developer.

f. Upon completion of the installation or arrangements for the improvements shown on the approved Preliminary Plat for the whole or a portion of the development, a request for consideration of the Final Plat by the Town Council shall be made by the developer in writing and submitted to the Zoning Administrator at least fifteen (15) days prior to the meeting of the Council at which it is to be considered. the Town Clerk shall schedule the date of consideration and notify the developer of such.

The date of consideration shall be no greater than forty (40) calendar days from the date of receipt of the letter of request.

g. The developer shall submit ten (10) copies of the Final Plat to include "as built" drawings at the time of the request. One of these copies shall be drawn on good quality reproducible material, such as linen or film Mylar.

h. The developer shall submit, along with at least ten (10) copies of "as built" drawings separate from the recorded plat material, a digital copy in the form and data compatible with the Town's Geographical Information System (GIS) of the final design. After utilities and infrastructure is completed, the developer and any subcontractors of the project shall submit digital copies and the "as built" drawings.

i. The request for consideration and submission of a Final Plat shall be made within two years after approval of the Preliminary Plat by the Council or as specified in the Zoning Ordinance Section 1-11 (Vested Rights) otherwise preliminary approval shall become null and void unless an extension of time is applied for and granted by the Council. No more than two (2) such extensions shall be granted.

j. The Final Plat shall conform substantially to the Preliminary Plat as approved by the Council.

k. The Final Plat shall include only that portion of the approved Preliminary Plat which the developer proposes to record and develop, provided that such portion conforms to all requirements of this chapter.

l. The purpose of the Final Plat review is to check the improvements (installed or guaranteed) by comparing the approved Preliminary Plat to the Final Plat. All improvements must be installed or guaranteed in accordance with this Ordinance prior to approval of the Final Plat.

m. The Final Plat shall be prepared by a registered

surveyor and/or engineer and shall be drawn at the same scale and on the same sheet size as the Preliminary Plat and shall conform substantially to the Preliminary Plat as approved or minor changes as approved by the Zoning Administrator, and shall comply specifically with the provisions of G.S. 47-30 Probate and Registration.

16-8 Building Permits and Certificate of Occupancy.

a. Where required by the Town Council in the approval process, prior to a building permit being issued for the construction of any building or structure of a planned development, there shall have been recorded in the office of the Carteret County Register of Deeds, the Final Plat of the property, or approved phase thereof.

b. Upon approval and filing of the Final Plat and reports with the Register of Deeds, building permits may be issued. The intent of the building permit is to enable the execution of the Final Plat in the field and shall not be construed to entitle the recipient to offer for sale or rent or lease any housing units or buildings. During this phase all field work shall be in accordance with the approved Final Plat. It shall be the responsibility of the developer to inform the various Town and County Inspection Officials as the progress of field work so that timely inspections may be made.

c. The Building Inspector is authorized to issue a certificate of compliance after each completed phase of the project which is agreed upon before approval of the Final Plat. The certificate of compliance shall be issued only after the Building Inspector is satisfied that all work has been executed as outlined in that phase of the approved Final Plat and in accord with the intent and spirit of this Ordinance.

d. Upon receipt of the certificate of occupancy, the permittee is duly authorized to begin the sale, rental or leasing of the completed phases of the project in

any way that is not contrary to the provisions of this Ordinance.

e. If it is provided in the Final Plat that it is desirable to occupy a portion or phase of the project prior to the completion of all site improvements as provided in the Newport Subdivision Regulations, the developer shall post a bond acceptable to the Newport Town Council in an amount sufficient to complete the improvements on all started phases. These agreements shall be made in conformance with the same provisions as required in the Newport Subdivision Regulations.

END NOTE

This is the end of the Newport Zoning Ordinances