

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of NEWPORT

FILED  
STATE RECORDS

DEC 29 2017

DEPARTMENT OF STATE

Local Law No. #1 \_\_\_\_\_ of the year 2017

A local law Town of Newport Zoning Ordinance "Amended 2017"

(Insert Title)

Addition of Solar definitions and Article A.713

Be it enacted by the Town Board of the \_\_\_\_\_  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of NEWPORT

as follows:

See attached completed Zoning including the solar addition for the Town of Newport.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. #1 of 2017 of the (County)(City)(Town)(Village) of Newport was duly passed by the Newport Town Board on December 11, 2017, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on 20 and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) and was deemed duly adopted on 20, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative Body) on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) on 20.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the (Name of Legislative Body) on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) on 20. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

*Nanette J. Roedel*

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12-26-17

(Seal)

**TOWN CLERK'S CERTIFICATION**

STATE OF NEW YORK

:SS:

COUNTY OF Herkimer

I, the undersigned Clerk of the Town of Newport, Herkimer County, New York, DO HEREBY CERTIFY:

THAT I have compared the attached proceedings of the Town Board of the Town of Newport including the resolution contained therein with the originals thereof on file in my office and that the same is a true and correct copy of the said original as recorded in the minutes of the Town Board meeting dated Dec. 11th, 2017 and filed in the Office of the Town Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Newport, New York this 12 day of Dec., 2017.

Nanette Roesler

Nanette Roesler

Put Clerk's Name Here

Town Clerk

Town of Newport

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**Town of Newport**

PUBLIC HEARING held on Dec. 11<sup>th</sup>, 2017 to amend Town of Newport Zoning Ordinance to include: Solar definition and Article A.713.

Meeting was opened @ 8pm and solar was reviewed.

Meeting was closed @8:25pm.

Regular meeting re-opened @8:26

RESOLUTION # 37

A motion by Councilman Tom Lindsay, seconded by Councilman John Brucker to accept the amended Newport Zoning ordinance to include the new solar language.

Voting as follows:

Councilman Brucker - AYE

Councilman Stock- AYE

Councilman Lindsay- AYE

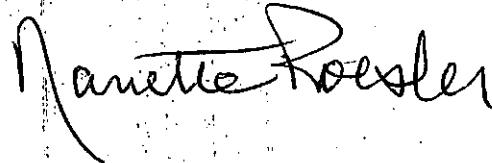
Councilwoman Goodman- AYE

Resolution # 37 passed.

By order of the Newport Town Board

I hereby certify this Resolution.

Nanette Roesler, Newport Town Clerk



**TOWN OF NEWPORT**  
**ZONING ORDINANCE**

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An Ordinance, to promote the health, safety, moral, and general welfare of the Town of Newport, New York, regulating and restricting the height, number of stories and size of buildings and other structures; restricting the density of population; regulating the size of yards and other open spaces; regulating and restricting the location and use of buildings, structures and land for trade, industry, residence or other purposes; creating districts for said purposes and establishing the boundaries thereof; establishing a Zoning Board of Appeals (ZBA).

In pursuance of authority conferred by ARTICLE 16 of the Town Law of the State of New York, being Chapter 634 of the Laws of 1932 as amended, and in accordance with a comprehensive plan designed to lessen congestion in the highways, to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of property, and encouraging the most appropriate use of the land throughout the town; the Town Board of the Town of Newport in the County of Herkimer, State of New York, hereby ordains and enacts as follows:

## **1.0 ARTICLE I - TITLE**

### **1.1. Section 1**

This Ordinance shall be known as the "Town of Newport Zoning Ordinance" Date January 26, 2017.

## **2.0 ARTICLE II – DEFINITIONS**

### **2.1 General**

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

- The word lot includes the word “plot or parcel”
- Words used in the present tense include the future tense meaning; words used in the singular number include the plural meaning and the plural the singular. The word “person” also means “corporation” or “company”
- The word “used” or occupied” when referring to any land or building shall also mean “built” or “arranged” or “designed to be used or occupied”
- The work “shall” is mandatory and not optional, and shall include “will”

### **2.2 Definitions**

**ACCESSORY BUILDING:** A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the main building.

**ACCESSORY STRUCTURE:** Any addition to a building or mobile home which includes: awnings, carports, porches, storage cabinets, and similar appurtenant structures.

**ACCESSORY USE:** A use customarily incidental to the principal use or building and located on the same lot as such use or building.

**AGRICULTURAL DATA STATEMENT (ADS):** A form required by the Herkimer/Oneida County Planning Board to be submitted by each permit applicant requesting a zoning permit for property located on or within 500 feet a property registered as a NYS Ag District.

**AGRICULTURAL:** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, silviculture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities

**ALLEY:** A service way which affords a secondary public means of vehicular access to abutting property.

**ALTER: ALTERATIONS:** A change or rearrangement of the structural parts, when referring to a building; also an enlargement, either in height or in sides or ends or the moving from one position to another.

**AREA, BUILDING:** The total areas taken on the horizontal plane at the main grade level of the principal building and all the accessory buildings, excluding uncovered porches, terraces and steps.

**AREA OF LOT OR SITE:** The total area within the property lines of a site.

**ASPHALT PLANT:** A facility where oil products, stone and/or sand are manufactured, processed or assembled to produce asphaltic material. The temporary placement of a portable asphalt plant during construction work on any public road when placed within one mile of such work area is excluded from definition of asphalt plant.

**AUTOMOBILE REPAIR SHOP:** Any area for motor vehicle repair, including frame or body repairs or alterations or painting, but not including the sale of gasoline or other retail sales.

**AUTOMOBILE SERVICE STATION:** Any area for the sale of gasoline and other automotive products and for automotive repair, not to include frame or body repair or alterations, or painting.

**AUTO WRECKING:** The dismantling or disassembling of used motor vehicles or the storage, sale, salvaging or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts. As used herein, the term "vehicle" shall mean passenger-type automobile, truck, tractor-truck, trailer, bus, motorcycle, or other vehicle, however propelled, as well as tractors, bulldozers, machinery, and similar equipment.

**BASEMENT:** A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground.

**BED AND BREAKFAST:** A private residence, that provides up to four guest rooms for nightly rent. The home must be a residence, occupied by the owner, while providing bed and breakfast for a short stay, and have adequate off-street parking.

**BOARDING HOUSE:** Any dwelling in which more than three persons either individually or as families are housed or lodged, except those engaged in farm work, for hire with or without meals.

**BUILDING:** Any roofed structure intended for the shelter, enclosure, or housing of persons, property or animals. When a building is divided into separate parts extending from the ground up each part so divided is deemed a separate building.

**BUILDING, FRONT LINE OF:** The line of the wall of the building nearest to the front line of the lot, including covered sun porches or parlors whether or not enclosed, but not including steps.

**BUILDING LINE:** A line defined by the outermost exterior wall of an existing or proposed building or structure.

**BUILDING, FLOOR AREA:** The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement area devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**BUILDING, HEIGHT OF:** The vertical distance measured from the grade level at the foundation to the highest point of the roof.

**BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the lot on which said building is located.

**BUSINESS OR COMMERCIAL:** Pertaining or relating to the sale, exchange, or trade of goods or services where such action is the principal use to which the building or land is devoted. Also means an accessory use of a building or land to an extent which is un-proportionate to the principal use.

**CAMP:** A structure (small building (No Minimum Sq Ft), travel trailer, or tent) used specifically for Seasonal purposes.

**CAMPING GROUND:** A tract of land that is planned and improved for the placement of two or more travel trailers, or two or more tents which are used as temporary living quarters, and which will comply with all existing State, County, and local regulations covering the same.

**CELLAR:** That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

**CLUB:** An organization catering exclusively to members and their guests, or premises and buildings for social, recreational or athletic purposes and not open to the general public, which are not operated primarily for gain.

**COMMERCIAL AMUSEMENT ENTERPRISE:** Any place or activity, open for the enjoyment of the general public, and which is operated for financial gain. Commercial amusement enterprise includes, but is not limited to: amusement park, miniature golf, outdoor theater, go-kart track, batting cage, skating rink, bowling alley, driving range, and rock digging.

**COMMON AREA:** Any area or space designed for joint use of tenants occupying said developments.

**COMMUNITY SEWER & WATER SYSTEM:** A private sewer and water system which serves an entire development, but has its service facilities remote from individual housing units.

**COVERAGE:** That area of the lot covered by the building

**DAY CARE CENTER:** A "child day care center," "group family day care home," or "family day care home," as defined by the Social Services Law Sec. 390 subsection (1) (c-e) of the State of New York, and which is duly licensed or registered by the state. Such facilities provide for the care of three (3) or more unrelated children for three (3) or more hours per day.

**DEPENDENT UNIT:** A housing unit which does not have a flush toilet and a bath or shower.

**DWELLING, SINGLE-FAMILY:** A building designed for year-round occupancy by one family.

**DWELLING, MULTIPLE-FAMILY:** A building designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

**EMPLOYEE COUNT:** For the purposes of this ordinance, the number of employees shall be defined as the maximum number of employees of an establishment that would be working at any one time.

**ENFORCING AGENCY:** The authority, agency, or the political subdivision charged by law with the duty to enforce the provisions of this ordinance.

**EVENT:** An activity which is a short-term expansion of said property uses or above and beyond said property uses for the entertainment and enjoyment of the public. The Event could be charitable or non-charitable in nature. An Event term is limited to 5 days or less with a maximum of 4 events per property or promoter, per year, except for Class 3 events which are limited to 2 events per year.. Each and every event requires a permit to be issued from the Town of Newport at least 30 days prior to the day of the scheduled event. (See Article 6)

**EXCAVATION BUSINESS:** A business for the purpose of modifying the landscape to meet user needs. Installation of cellars, ponds or septic systems or grading for lawns and driveways.

**FAMILY:** One or more persons occupying the premises and living as a single housekeeping unit as distinguished from group occupying a boarding house, lodging house, club, fraternity or hotel.

**FARM:** Means the land (10 acres or more) and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products, excluding commercial Hog farming (50 or more hogs) and Fur Bearing Animal farming, as a commercial enterprise, including a "commercial horse boarding operation" as defined in AML 301(11), a "timber operation", as defined in AML 301(11) "compost, mulch or other biomass crops" as defined in AML 301(11) and "commercial equine operation" as defined in AML 301(11).

**FARM STAND:** A structure whose principal use is the seasonal display and sale of agricultural products primarily grown on the premises. A farm stand pulled by a truck or tractor may also include a movable wagon or platform and placed in proximity to the roadway.

**FENCE:** A freestanding structure designed to restrict or prevent movement across a boundary. Fences are constructed for several purposes, including:

- Agricultural fencing, to keep livestock in or predators out
- Privacy fencing, to provide privacy

- Temporary fencing, to provide safety and security, and to direct movement, wherever temporary access control is required, especially on building and construction sites
- Perimeter fencing, to prevent trespassing or theft and/or to keep children and pets from wandering away
- Decorative fencing, to enhance the appearance of a property, garden or other landscaping
- Boundary fencing, to demarcate a piece of real property

**FILLING STATION:** Any area of land including structures thereon, used or designed to be used to supply motor vehicles with gasoline or oil or other fuel, which may include facilities for servicing, lubricating, and minor repairing, but not including salvaging of such vehicles.

**FIREWOOD PROCESSOR:** Mill for processing timber into Firewood as a commercial operation.

**FIRE PREVENTION AUTHORITY:** The fire prevention organization within whose jurisdiction said development is situated.

**FOUNDATION:** A permanent structure which is located under the main body of a residence or building which supports and prevents said structure from shifting, settling or heaving.

**FRONTAGE:** The lot line of a plot or parcel of land which abuts a public street or road.

**GARAGE, PRIVATE:** A structure used for the non-commercial storage of motor vehicles with accessory usage generally considered incidental to such main use.

**GARAGE, PUBLIC:** Any garage other than a private one, available to the public, and used for the storage, servicing, equipping, or repairing of motor vehicles of all types.

**GARAGE, STORAGE:** A building or part thereof, used for the storage of vehicles for gain, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

**GML – 239:** Herkimer/Oneida County Planning Board requirement for any permit activity occurring within 500 feet of a Municipal Boundary, County Highway, County or State Park, County or State owned property, and any NYS Ag District.

**GRADE, ESTABLISHED:** The elevation of the centerline of the roads or streets as established by the proper authorities.

**GRADE, FINISHED:** The complete surface of lawns, walks, or roads or the average elevation of the surface of the ground where it abuts the structure.

**GUN CLUB:** A club which includes the legal discharge of firearms.

**HAZARDOUS CHEMICALS:** Solid, liquid or gaseous substances which pose a potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed, including but not limited to hazardous substances designated by

the U.S. Environmental Protection Agency under Section 311 of the Clean Water Act (40 CFR 116).

**HAZARDOUS WASTE:** Chemicals or substances which are physical hazards or health hazards as defined and classified in the State Uniform Fire Prevention and Building Code, Parts 1220 to 1227 of Title 19 of the New York Codes, Rules and Regulations (NYCRR), or in Title 40 of the Code of Federal Regulations (CFR), Part 261.

**HEALTH AUTHORITY:** The State Department of Health, or its authorized representatives, or the local health official serving the municipality.

**HOME OCCUPATION:** Any person or professional service customarily conducted entirely within a dwelling or accessory building, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the residential character thereof. Not more than one person outside the family residence shall be employed. There shall be no exterior storage of materials used in the occupation. No stock-in-trade shall be displayed or maintained on the premise and no retail sales on the premise shall occur.

- Home occupation includes artist, baby-sitting, barber, beautician, cooking, drafting, dressmaking, electrical repair, radio and television repair, furniture refinishing, laundering, photography, upholstery, and other trades and businesses of similar nature
- Home occupation shall not include animal hospital, commercial stable or kennel, convalescent home, garage or repair of motor vehicles, mortuary, music or dancing instruction to groups, bed and breakfast, or restaurant

**HOME BASED BUSINESS:** Any service where the office is based in the primary residence and some or all of the service activity is conducted off premise is allowed by Special Use Permit as defined in each Zone of this ordinance.

- Any number of outside the family employees are allowed but only a certain number of outside the family employees are allowed to work on premise as per Special Use Permit.
- Commercial vehicles and outside storage of equipment, supplies and materials are allowed with limitations as per Special Use Permit
- The primary purpose of Home Based Business is to promote business development within the town, while maintaining the health, welfare, nature and characteristic of the zoning districts and placing a great emphasis on the consideration of the immediate neighbors of the proposed Home Based Business
- The Special Use Permit for Home Based Business is transferable to a new owner only if the new owner operates the Business under the conditions of the Special Use Permit

**HOSPITAL:** A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

**HOSPITAL, ANIMAL:** An establishment for temporary occupancy by sick or injured animals for the purpose of medical treatment.

**INDEPENDENT UNIT:** A housing unit which has a flush toilet and a bath or shower which are operative.

**INDUSTRIAL:** The use of buildings or land or both for the purpose of manufacturing or producing, in whole or part, any type of product or goods, for the subsequent sale, trade, exchange, or shipment.

**JUNK:** The outdoor storage or deposit of any of the following shall constitute junk:

- Two or more junk vehicles
- One or more junk mobile homes
- Two or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, televisions, computers, and computer peripherals
- Two or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge, chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers
- Ordinary household or store trash and discarded materials no longer intended or in condition for ordinary use, and any and all tangible personal property no longer intended or in condition for ordinary and customary use
- Toxic chemicals, hazardous materials, and radioactive materials at levels that could be injurious to human, animal, and biological life, exempting New York State licensed applicators

**JUNK MOBILE HOME:** Any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living, business and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which is no longer suitable for human habitation or business use.

**JUNK STORAGE AREA:** The area of any parcel of land or water used or intended to be used for the placement, storage, or deposit of junk.

**JUNK VEHICLE:** A motor vehicle, no longer intended or in condition for legal use on the public highways, racetracks, dirt roads, mines, airports, quarries, construction sites, or farms, or used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles. A vehicle is considered junked when it meets one or more of the following conditions:

- It is unlicensed
- It is abandoned, wrecked, stored, discarded, dismantled, or partly dismantled
- It is not in any condition for legal use upon the public highways, racetracks, dirt roads, mines, airports, quarry construction sites, or farms
- It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair



- With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six (6) months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a "junked motor vehicle"
- The fact that a motor vehicle does not display a current license plate and registration shall be presumptive evidence that such motor vehicle is unlicensed

**JUNK YARD:** A lot, land or structure, or part thereof, used for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof.

**JUNK YARD, AUTOMOBILE:** Shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts there from, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two or more such vehicles; provided however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron, steel or nonferrous scrap for sale for re-melting purposes.

**KENNEL:** A structure used for harboring more than three dogs that are more than six months old.

**KEYHOLE LOT:** A lot of (5 Acres Minimum) for uses defined in this ordinance but having limited road frontage.

**LAUNDERETTE:** A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

**LIGHT MANUFACTURING:** Any use wherein the primary occupation is the processing, fabrication, converting, altering, assembling or other handling of materials or goods; the operation of which is conducted solely within a building or group of buildings; and which use creates no objectionable odors, fumes, dirt, vibration, glare, or noise beyond the site.

**LOT:** A portion, plot or parcel of land considered as a unit, devoted to a certain use or occupied by a building (s) united for a common interest. Also, such open land existing and not subject to use at the time of adoption of this ordinance.

**LOT, AREA:** The total area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

**LOT, CORNER:** A parcel of land at the junction of and fronting on two or more intersecting streets, or roads so as to form an interior angle of 135 degrees or less.

**LOT, DEPTH OF:** The mean horizontal distance between the front and rear lot lines, measures in the direction of the side lines of the lot frontage.

**LOT, LINES:** Any line or lines dividing one lot from another lot or from a street.

**LOT, WIDTH OF:** The width of the lot measured at right angles to the lot depth at the front yard specified for the district.

**MANUFACTURING:** Any process whereby the nature, size, or shape of articles, minerals, or raw or processed materials is changed, or where such articles, minerals, or raw materials are assembled.

**MINE:** Any area excavated for the purpose of mining takes place; including all haulage-ways and all equipment above, on or below the surface of the ground used in connection with such excavation.

**MINERAL:** Any naturally formed, usually inorganic, solid material located on or below the surface of the earth, including but not limited to sand, gravel, stone and soil.

**MINING:** The extraction of more than one hundred (100) cubic yards of overburden or minerals from the earth, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit. The term "mining" shall include the extraction or removal of minerals from their original location and/or the washing, cleaning, crushing, screening, stockpiling, or loading of the minerals.

**MOBILE HOME:** A factory finished mobile dwelling unit designed and built on a frame according to HUD standards. The finished unit shall include wheels which are used to tow the home over the highway. The structure shall continue to be classified as a mobile home even if a pitched roof is added after it leaves the factory. Any unit manufactured after January 15, 1974 must bare a HUD seal.

**MOBILE HOME LOT:** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

**HOME PARK (OR COURT):** A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.

**MOBILE HOME STAND:** The part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

**MODULAR OR SECTIONAL:** A factory built home, made of sections that comply with requirements of the International Building Code combined with NYS Enhancements. Each

section or module is built with construction materials and techniques compatible to a stick built house. Sections or modules are transported to the building site, then fastened together.

**MOTEL:** A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for travelers.

**NATURAL GAS:** Any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION:** Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

**NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION MATERIALS:** Any solid, semi-solid, liquid, semiliquid or gaseous material used in the exploration or extraction of natural gas.

**NATURAL GAS EXPLORATION AND/OR PETROLEUM PRODUCTION WASTES:** Any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

**NATURAL GAS AND/OR PETROLEUM EXTRACTION AND PRODUCTION:** The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons. "Natural Gas and/or Petroleum Support Activities" shall mean the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

**NON-COMMERCIAL VEHICLE:** Any vehicle that is used primarily for personal use, rather than primarily used in the conduct of a business.

**NON-CONFORMING BUILDING:** A building or structure which does not conform with the regulations prescribed for in the district where it is located. However said unit lawfully existed at the time of enactment or amendment of this ordinance.

**NON-CONFORMING LOT:** Any lot which does not conform with the minimum area or dimensions required in the district in which it is situated or with the characteristics normally required of lots in the district where located.

**NON-CONFORMING USE:** A building, structure, or use of land lawfully existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

**NON-WATERBORNE SYSTEMS:** In certain areas of the State where running water is not available or is too scarce to economically support flush toilets, or where there is a need or desire to conserve water, the installation of non-waterborne sewage systems may be considered however, the treatment of wastewater from sinks, showers, and other facilities must be provided when non-flush toilets are installed. Household wastewater without toilet wastes is known as greywater.

**NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED:** A building used for accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for accommodation and care of persons of advanced age.

**NURSERY SCHOOL:** Facilities for the daytime care or instruction of two or more children from two to five years of age inclusive, and operated on a regular basis.

**NURSERY:** Facilities for the use of growing and selling plants, such as vegetables, flowers, young trees, shrubs, etc.

**PARKING SPACE:** The area required for parking one automobile, normally regarded as being an area 9 feet wide and 20 feet long, exclusive of driveways and passageways thereto, and held to be a minimum by this ordinance.

**PERSON:** Any individual, firm, trust, partnership, public or private association, or corporation.

**PERSONAL SERVICES:** Any use wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person, or are a physical component of the person. For the purpose of this ordinance, personal services shall include, but are not limited to, barber shop, beauty parlor, hairdresser, shoe repair, laundry, Laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature. Personal services do not include offices of physicians, dentists, and veterinarians, or dry cleaning plant.

**PLAT:** Any map, plan or chart, indicating the location and boundaries of individual properties.

**PLOT:** A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat.

**PORTABLE SAWMILL:** A movable device used for cutting timber harvested on the property where the device is located and used intermittently for non-commercial purposes.

**PORTABLE TEMPORARY STORAGE CONTAINER:** Any container, storage unit, or other portable structure that can be or is used for the storage of any kind, and which is not an accessory building or shed complying with all building codes and land use requirements. A

portable temporary storage container shall also include any enclosed trailer, or junk vehicle, when used for the storage of property.

**PRIVY:** Refers to a non-waterborne system facility or structure provided for the storage or disposal of human excreta without water carriage.

**PUBLIC SEWER & WATER SYSTEM:** Refers to a system which serves an entire development but has its service facilities remote from individual housing units, usually in the form of a municipally operated utility system.

**PUBLIC STREET OR ROAD:** A public way which affords principle means of access to abutting properties.

**PUBLIC PARK:** Recreational use of land.

**PUBLIC UTILITY:** Includes offices and secondary uses of cable, gas, electricity, water, sewage, and telephone (including cellular telephone facilities); service companies.

**RESTAURANT:** Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, play field or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**RESTAURANT DRIVE-IN:** A restaurant at which food is sold for consumption off the premises. For the purposes of this Zoning Law, a restaurant which sells food for both on premises and off-premises consumption shall be considered a drive-in restaurant.

**RIGHT-OF-WAY:** The area, either public or private, over which the right of passage exists.

**ROOMING HOUSE:** (See Boarding House)

**RURAL SERVICE SHOP OR USE:** A limited commercial business or service oriented to the rural residential agricultural needs of the town and involving the use of space in the principal residential structure or in an accessory building, whether existing or built specifically for the purpose of housing such business or service.

**SAWMILL:** Mill for processing timber into boards and lumber as a commercial operation. For purposes of this law the term sawmill does not include portable devices used on a temporary basis for cutting timber harvested on the property where the portable device is temporarily located. (See definition of portable sawmill.)

**SERVICE BUILDING:** A structure housing a toilet, lavatory and/or such other facilities as may be required by this ordinance.

**SEWER CONNECTION:** The connection of all pipes, fittings, and appurtenances from the drain outlet of the mobile home or building to the inlet of the corresponding sewer riser pipe of the sewer system serving the mobile home part or development.

**SEWER RISER PIPE:** That portion of the sewer lateral which extends vertically to ground elevation and terminates at each building or mobile home lot.

**SHORELINE:** That line at which land adjoins the waters of lakes, ponds, rivers and streams at the mean high water level.

**SHORELINE BUILDING SETBACK:** The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake, pond, rivers, or stream.

**SHORELINE LOT WIDTH:** The distance, measured along the shoreline, between the boundary lines of a lot as they intersect the shoreline.

**SIGN:** Any inscribed surface, pattern of artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, or other visually communicative or expressive device that is visible from an out-of-doors position and is used to advertise or call the public's attention to any business, activity, object for sale or lease, person, or place, or to bear any kind of message. The meaning of "sign" shall not include any sign erected by the federal, state, county, town, government or any department or agency thereof, any poster placed temporarily to advertise a civic event or an event sponsored by a house of worship, school, library, museum, social club, or society, or any patriotic flag or banner not used for commercial advertising purposes. The meaning of "sign" shall also not include any placard less than 3 square feet that is used simply to mark property boundaries, give directions regarding roads or trails, exclude hunting, fishing, or other activities, warn of any hazard or condition, denote the name and address of the occupants of the premises on which the sign is located, or advertise the availability of the premises or some portion thereof for sale or lease.

**SIGN AREA:** The total area of all faces or surfaces of a sign anywhere upon which writing or any illustrative, emblematic, or other artistic or expressive matter appears, or, in cases where writing or illustrative, emblematic, or other artistic or expressive matter is not set against any face or surface, the total area within a single continuous rectangular, perimeter enclosing the extreme limits of such writing or illustrative, emblematic, or other artistic or expressive matter. The sign area of a sign having more than one face or surface on which writing or illustrative, emblematic, or other artistic or expressive matter appears shall be the total area of all such faces or surfaces; but if a sign consists of two such faces or surfaces placed back-to-back, the sign area of the side having the greater sign area shall constitute the total sign area. The sign area of a group of connected or related signs shall be the sum of the sign areas of the signs belonging to it.

**SIGN, FLASHING:** A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance any revolving or illuminated sign shall be considered a "flashing sign."

**SPECIAL USE:** A use which is deemed allowable within a given zoning district, but which is potentially incompatible with other uses and is therefore subject to special standards and conditions set forth for such use subject to approval by the Planning Board.

**STABLE, PRIVATE:** Accessory building in which horses are kept for private use and not for hire or sale.

**SOLAR (ELECTRIC PV):** Any means by which sunlight is collected to produce electricity.

**SOLAR (THERMO):** Any means by which sunlight is collected to produce heat.

**SOLAR FARM:** Any solar installation where as the sole intention is to produce solar energy as a commercial enterprise.

**STABLE, PUBLIC:** Accessory building in which horses are kept for remuneration, hire or sale.

**STABLE, RIDING/RIDING CLUB:** Business for the purpose of providing horse riding training and services.

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STORY, HALF:** That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area. Space with less than five feet clear headroom shall not be considered as floor area.

**STRUCTURE:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, or any substantial change in the roof.

**THEATER, OUTDOOR:** An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis.

**TEMPORARY SIGN:** Any for sale or for rent sign, or any sign announcing an event which is removed within thirty (30) days of its placement.

**TOURIST CAMP:** (See Camping Ground)

**TOURIST HOME:** A dwelling in which overnight accommodations are provided for transient guests for compensation.

**TRAVEL TRAILER:** A mobile unit designed for camping, recreational travel, or vacation use only, which is equipped with a chassis and provides partial housekeeping facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

**TRAVEL TRAILER CAMP, OR PARK:** (See Camping Ground)

**TRUCKING BUSINESS:** A business that uses commercial vehicles, such as, dump, and/or flatbed trucks, vans, and or trailers for hire to transport goods and materials.

**UNDERSIZED LOT:** Any legally recorded lot whose area and/or width and/or depth and/or highway frontage is/are less than the minimum requirements specified herein for the district in which said lot is located.

**UNIT:** A house, apartment, mobile home, cabin, camp or cottage designed for single family use.

**WASTE MATERIAL:** Material residue from production processes. Includes construction debris, manure, slab wood from cutup logs, old silage, old hay and etc. Does not include household wastes, petroleum wastes, used tires, or other hazardous materials.

**WATER CONNECTION:** The connection consisting of all pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the building or mobile home.

**WATER RISER PIPE:** Means that portion of the water supply system serving the development or mobile home park which extends vertically to the ground elevation and terminates at a designated point at each building or mobile home lot.

**WIND POWER GENERATING FACILITY, LARGE:** A wind conversion facility consisting of wind turbines, towers, and associated control or conversion electronics which has a rated capacity of more than 100 kW, and where electrical power is transferred to a transmission system for distribution to customers rather than for use on the site.

**WIND POWER GENERATING FACILITY, SMALL:** A wind conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended primarily to reduce on-site consumption of utility power.

**YARD, FRONT:** An open, unoccupied space on the same lot with the main building extending the full width of the lot and situated between the legal road right of way and the front line of the building projected to the side lines of the lot.

**YARD, REAR:** An open, unoccupied space on the same lot with the main building, open and unoccupied except for accessory building, if any, extending the full width of the lot and located between the rear line of the main building and the rear line of the lot.



**YARD, SIDE:** An open unoccupied space on the same lot with the main building, located between the side-lines of the main buildings and the adjacent lot side-lines, and extending from the front yard to the rear yard.

**ZONING OFFICER:** A person appointed by the Newport Town Board responsible for enforcement of the Zoning Ordinance.

**ZONING PERMIT:** A written document issued by the Zoning Officer allowing a person to construct, operate and maintain such development under the provisions of this ordinance.

### **3.0 ARTICLE III - ZONES AND BOUNDARIES**

#### **3.1 Establishment of Zones**

For the purpose of this ordinance, the Town of Newport is divided into the following types or classes of current or future Zones: (NOTE: Residential Zones have a depth of 500 feet from highway centerline.)

- R-1 Residential Zone – As shown on digital map
- R-2 Residential Zone - As shown on digital map
- R-M Mobile Home Zone - As shown on digital map
- A Agricultural Zone - As shown on digital map
- B-1 Business Zone - As shown on digital map
- B-2 Special Business Zone - As shown on digital map
- B-P Planned Business Zone - As shown on digital map
- R-P Residential Planned Zone - As shown on digital map

Said Zones are bounded and defined as shown on a map entitled “Zoning Map of the Town of Newport, Herkimer County, New York”, hereinafter called the “Zoning Map”, adopted by the Town Board and certified by the Town Clerk which accompanies and which, with all explanatory matter thereon is hereby made a part of this ordinance.

#### **3.2 Interpretation of Zone Boundaries**

The following rules shall apply to determine the boundaries of the Zones shown on the zoning maps:

- Where Zone boundaries follow streets or highways, the centerlines of such streets and highways shall be considered the Zone boundaries
- Where Zone boundaries intersect lot lines, such lot lines can be considered the Zone boundaries
- Where Zone boundaries on the zoning map follow natural routes such as streams, etc., the center of such natural routes shall be considered to be the Zone boundaries
- Where Zone boundaries are indicated as parallel to streets or highways they shall be construed as being parallel thereto and at such distances therefrom as indicated in figures on the appropriate map, or, if no such figures appear, then by measurement of the map scale
- Where a Zone boundary line divides a lot in one ownership at the time of adoption of said Zone line, the regulations for the less restricted portion of such lot shall extend a maximum of 50 feet into the more restricted portion provided the lot has frontage on a street in the less restricted Zone
- The R1 Zone is classified as the most restricted Zone in the Town of Newport followed by R2, RM, A, B1, and B2 in this sequence with a B2 Zone being the least restricted.
- In case of dispute as to the exact location of a Zone boundary, the decision of the ZBA is final

### **3.3 Application of Regulations**

Except as otherwise provided elsewhere in this ordinance:

- No building or structure shall be erected, constructed, reconstructed or altered, and no land or building or part thereof shall be used, for any purpose or in any manner except as permitted for the district in which such building or land is located
- No building or structure shall be erected, constructed, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in any way, except in accordance with the yard, lot area and building location regulations of this ordinance for the district in which such building is, or shall be located; or where such open space or land is located
- No yard or other open space surrounding any building located in conformance with this regulation shall be considered as providing the requisite yard or open space area for another building. Likewise, no yard or open space on one lot shall be considered as providing a required yard or open space for a separately owned building on any other lot

#### **4.0 ARTICLE IV - USE REGULATIONS**

Any permit application (New, Variance or Special Use) in the Town of Newport for properties on or within 500 feet of a NYS Certified Ag District require submittal of 2 additional forms. The Applicant will need to submit an Agricultural Data Statement (ADS) to the Zoning Officer with the Zoning Application. The Town is required to submit a Herkimer/Oneida County Planning Board referral Form GML-239. The resulting permit cannot be issued until recommendations are returned from the Herkimer/Oneida Planning Board. (See Definition for ADS)

A GML-239 is also required to be submitted by the Town for permit requests that occur within 500 feet of a County Road, Municipal Property, County Property Line or NYS State Highway. (See Definition for GML-239)

#### **4.1 R-1 Residential Zone**

In the R-1 Residential Zone, the following uses are permitted, subject to regulations set forth in this ordinance: (Refer to Zoning Schedule A)

##### **Principal Uses Permitted:**

- One-family dwellings
- Home occupation
- Public park or playground, municipal building
- Public or parochial school, church
- Hospital, nursing or convalescent home
- Educational, religious or philanthropic institution
- Golf course
- Bed & Breakfast
- Such accessory uses are customarily incidental to the foregoing uses

Specifically excluded is the parking of more than one commercial vehicle on a residential lot.

##### **Uses permitted with a Special Use Permit:**

- Key Hole Lot, Dwelling
- Home based business with the following criteria:
  - No more than 2 outside the family employees working on premise
  - No more than 3 light duty (pickup truck) commercial vehicles parked on premise as established in the Special Use Permit
  - No more than 2 commercial trailers associated with the light duty commercial vehicles parked on premise as established in the Special Use Permit
  - Outside storage of equipment, supplies and materials must be screened, fenced with solid fence or under cover as established in the Special Use Permit
  - Examples: Furniture Refinishing, Upholstering, Small Contractor

## **4.2 R-2 Residential Zone**

In the R-2 Residential Zone, the following uses are permitted, subject to regulations set forth in this ordinance:

### **Principal Uses Permitted:**

- Multiple dwelling of 2, 3, or 4 units having a minimum lot area of 2 acres
- All uses permitted in the R-1 Residential Zone
- Such accessory uses are customarily incidental to the foregoing uses

### **Uses permitted with a Special Use Permit**

- Camp Ground
- Nursery
- Stable, Riding
- Retail Store
- Professional or Business Office
- Barber/Beauty Shop
- Home Based Business with the following criteria:
  - No more than 5 outside the family employees working on premise
  - No more than 3 commercial vehicles with a maximum of 1 heavy duty commercial vehicle (GVW of 26,000 lbs. or more)) parked on premise as established in the Special Use Permit
  - No more than 3 commercial trailers with a maximum of 1 heavy duty (GVW of 26,000 lbs. or more)) associated with the commercial vehicles parked on premise as established in the Special Use Permit
  - Outside storage of equipment, supplies and materials must be screened, fenced with solid fence or under cover as established in the Special Use Permit
  - Examples: Furniture Refinishing, Upholstering, Small Contractor

## **4.3 R-M Mobile Home Residential Zone**

In the R-M Mobile Home Residential Zone the following uses are permitted, subject to all regulations set forth in this ordinance:

### **Principal Uses Permitted:**

- One-family dwelling having a minimum lot area of 1 acre
- Neighborhood Park or playground
- Mobile home having a minimum lot area of 1 acre home occupation
- Such accessory uses as are customarily incidental to the foregoing uses

### **Uses permitted with a Special Use Permit:**

- Home based business with the following criteria:
  - No more than 2 outside the family employees working on premise

- No more than 2 light duty (pickup truck) commercial vehicles parked on premise as established in the Special Use Permit
- No more than 1 commercial trailers associated with the light duty commercial vehicles parked on premise as established in the Special Use Permit
- Outside storage of equipment, supplies and materials must be screened, fenced with solid fence or under cover as established in the Special Use Permit
- Examples: Furniture Refinishing, Upholstering, Small Contractor

#### **4.4 A - Agricultural Zone**

In the A-Agricultural Zone the following uses are permitted subject to regulations set forth in this ordinance: (Refer to Zoning Schedule A)

##### **Principal Uses Permitted:**

- All Uses of R1 and R2
- Agricultural
- Multiple dwelling of 2, 3, or 4 units having a minimum lot area of 2 acres
- One or two-family dwelling having a minimum lot area of 2 acres per family
- Home occupation
- Boarding or rooming house or tourist home or bed and breakfast
- Radio or television broadcasting studio
- Golf course, riding clubs, tennis courts, swimming pools, and other recreational uses.
- Fish and Game Club
- Such accessory uses as are customarily incidental to the foregoing uses

##### **Uses Permitted with a Special Use Permit:**

- The location of one mobile home upon a farm, which is primary source of income of the owner and who is actively engaged in such farming, and used in conjunction with the operation of the farm by a person primarily engaged as hired help of the owner. The mobile home shall not be located on a separate lot, but shall comply with other set back and yard requirements of this ordinance for a one family dwelling
  - In the event that a mobile home located on a farm, and having previously met the requirements established in paragraph above, is no longer to be used as a residence for hired help, the owner must remove the mobile home
- Campground
- Public Utility Station
- Transmitter tower
- Retail Store
- Commercial Saw Mill/Firewood Processor
- Slaughterhouse
- Solar farms.
- Home Based Business with the following criteria:
  - Number of outside the family employees working on premise established in Special Use Permit

- Number of commercial vehicles parked on premise as established in the Special Use Permit
- Outside storage of equipment, supplies and materials must be screened, fenced with solid fence or under cover as established in the Special Use Permit
- Set Backs of 100 ft minimum from all property lines for the storage of supplies, materials equipment and vehicles
- Wherever possible the Commercial Buildings and activity shall be behind the residence
- Minimum 5 acres of lands
- 100 ft from highway
- Examples: Excavation contractor; light trucking, sawmill

#### **4.5 B-1 Business Zone**

In the B-1 Business Zone the following uses are permitted, subject to regulations set forth in this ordinance:

##### **Principal Uses Permitted:**

- Professional or business office, municipal building
- Bank
- Motel, restaurant
- Personal services such as barber or beauty shop
- Light Manufacturing
- Multiple-family dwellings having a minimum lot area of 4,000 sq. ft. per family
- Retail stores and shops
- Laundromat
- Bakery or confectionery
- Mortuary, undertaking parlor or Crematory
- Campground
- Laundry or dry cleaning plant
- Commercial amusement enterprise
- Such accessory uses as are customarily incidental to the foregoing uses

##### **Uses Permitted with a Special Use Permit:**

- Public Utility Station
- Fish and Game/Gun Club
- Solar farms.

#### **4.6 B-2 Special Business Zone**

In the B-2 Special Business Zone, the following uses are permitted, subject to regulations set forth in this ordinance:

##### **Principal Uses Permitted: All uses permitted in B-1 Zone, plus:**

- Automobile, boat, farm implement sales or rental including accessory services

- Mining or Commercial Quarrying - Subject to additional regulations set forth in Article 7 Paragraph 6 of this ordinance
- Public garage, but not including automobile graveyard nor the outdoor storage of vehicles or implements not in operating condition
- Commercial camping ground or trailer camp

**Uses Permitted with a Special Use Permit:**

- Public Utility Station
- Manufacturing
- Solar farms.

**4.7 B-P - Planned Business Zone**

In the B-P Planned Business Zone (Can be established in Agricultural and Residential Zones) the following uses are permitted, subject to regulations set forth in this ordinance:

**Principal Uses Permitted:**

- Retail store
- Shopping center
- Professional or business office
- Sales office or agency
- Data processing center
- Development or research center
- Printing or publishing plant
- Motel, restaurant
- Bank, savings and loan institution
- Light manufacturing

Any Planned Business Zone shall have a highway frontage of 400 feet, comprise a minimum at least 5 acres and each use within such district shall comprise at least one acre.

Application for the creation of such a Zone or a use within such a district shall be made to the Town Board who shall refer the application to the Planning Board for its consideration and report.

In the case of a request to establish a new business Zone, the Planning Board shall either approve, modify and approve, or disapprove such application and shall report its decision to the Town Board within 62 days of receipt of said application. The Town Board shall hold a public hearing preceded by due notice as provided by law, and within 62 days of receipt of the Planning Board's report, the Town Board shall hold said public hearing and make a decision on the application.



In the case of a request to establish a new use within a Planned Business Zone, the Planning Board shall either approve, modify and approve, or disapprove such application and shall report its recommendation to the Town Board regarding the issuance of a building permit.

In the event that the use authorized by the Planning Board has not been completed or substantial progress made within one year from date of approval, such approval shall be deemed automatically revoked and void. The Town Board may extend the permit for an additional period of six months, if evidence is presented of intention to proceed.

#### **4.8 Performance Standards**

The uses permitted for Planned Business Zone and Home Based Businesses are subject to the additional regulations set forth below:

- **Performance Standards:** No land or building in any Zone shall be used or occupied in such a manner as to create any dangerous, injurious, noxious, or other hazard due to odor, fire, noise, explosion, vibration, smoke, dust, dirt or other disturbance. The determination of potentially dangerous or objectionable elements shall be made at locations as follows:
  - At the point of origin for fire an explosion hazards, for radioactivity and electrical disturbances, and for smoke and other forms of air pollution
  - At the property line for noise, vibration, glare, odors and other hazards or nuisances
- An applicant shall furnish such preliminary maps, plans and drawings as may be required by the Town Planning Board for an understanding of the proposed development. In reaching its decision on the proposed developments, the Planning Board shall consider and report upon the need for the proposed use in the proposed location, the character of the neighborhood in which the use would be located, the safeguards provided to minimize possible detrimental effects on adjacent property, compliance with performance standards, and other appropriate factors.

**For each application, the Planning Board shall determine in its judgment that:**

- The use is not detrimental to public health, safety and general welfare
- The use is appropriately located and served with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities
- Adequate off-street parking spaces are provided to handle the proposed use or uses
- The neighborhood character and surrounding property values are reasonably safeguarded.
- The use will not cause traffic congestion or create a traffic hazard
- Adequate design of grades, paving, gutters, drainage, and treatment of turf to handle storm drainage and prevent erosion and dust, is provided
- Proper design and arrangement of signs and lighting devices with respect to traffic control and adjacent neighborhoods, is provided
- Adequate screen planting, fencing or walls to shield adjacent residential districts from business structures and uses, are provided
- Other conditions of this ordinance are satisfied

#### **4.9 R-P Planned Residential Zone**

In the R-P Planned Residential Zone (Can be established in Agricultural and Residential Zones), the following uses are permitted, subject to regulations set forth elsewhere in this ordinance:

### **Principal Permitted Uses:**

- One-family, two-family or multiple-family dwellings or a combination thereof
- Neighborhood park, playground, or swimming pool
- Such accessory uses as are incidental to the foregoing uses, like private garages and/or storage sheds

Within a Planned Residential Zone, the minimum area, off-street parking, yards, building coverage, and building height shall be as follows:

- Area: Minimum area of 10 acres
- Off-Street Parking: Shall be provided as follows
  - One- and two-family dwellings - 2 spaces per dwelling
  - Multi-family dwellings - 2 spaces per dwelling
  - Parking other than in a garage shall be limited to the driveway
- Building Coverage max: Shall be as follows:
  - 15 percent for one- and two-family dwelling
  - 20 percent for multi-family dwelling
- Building Height max: Shall be as follows:
  - 2-1/2 stories and 35 feet for one- and two-family dwellings
  - 4 stories and 45 feet for multi-family dwellings

The calculation of area for a Planned Zone shall not include easements, parks, existing streets or otherwise dedicated land; water areas in excess of five percent of the minimum gross acreage; lands designated on the official map for public purposes. Sites proposed for a combination of two or more use district classifications shall consist of the total land area required for each such use.

Application for establishment of a Planned Residential Zone, or for a project within such a district shall be made to the Town Board. The Board shall refer the application to the Town Planning Board within 30 days after receipt of the application. The applicant shall furnish basic site data pertaining to the boundaries of the proposed Planned Development, existing zoning, topography and subsoil conditions, and such preliminary building plans and specifications as may be required for an understanding of the proposed development, with the petitions for any desired zoning change.

The Planning Board may require such changes in said preliminary plans as are found to be necessary to meet the requirements of this ordinance. The Planning Board may make such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect the orderly growth and sound development of the community. In reaching its decision on the proposed development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:

- The need for the proposed land use in the proposed location
- The existing character of the neighborhood
- The location of principal and accessory buildings on the site in relation to one another

- The pedestrian circulation and open space in relation to structures
- The traffic circulation features within the site, and the amount, location, and access to automobile parking areas
- The height and bulk of buildings and their relation to other structures in the vicinity
- The proposed location, type, and size of display signs, driveways, loading zones, and landscaping
- The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general
- Storm drainage and sanitary waste disposal in and adjacent to the area

Site Plans submitted shall contain the following information:

- Name and address of owner of record
- Name and address of person, organization or firm preparing the site plan
- Date, north point, and scale
- A map showing the applicant's entire property and adjacent properties and streets; any relevant deed restrictions and covenants shall also be noted
- The proposed use, location, height, design, and site elevation of all proposed buildings and structures, and existing buildings or structures
- Any proposed division of any building into separate units of occupancy
- The proposed spatial arrangement of land uses
- Existing topography and proposed grade elevations at intervals of 5 feet or less
- Location of all existing watercourses, intermittent streams, wetland areas, rock out-crops, wooded areas and any other significant existing features
- The general configuration of all existing and proposed public and private roads, drives and walkways
- Proposed final grades, including detailed information relative to methods to be used to retain, stabilize, and/or refurbish re-graded areas and the proposed plan for maintaining land stability and tree protection during construction.
- Location of all parking and loading areas, with access and egress drives thereto
- Location of all traffic safety devices and directional flow of traffic
- Location of any outdoor storage and solid waste containers
- Location and description of all proposed and existing site improvements such as, but not limited to, drainage pipes, drains, culverts, ditches, bridges or other drainage works or retaining walls. Drainage information shall be provided by a licensed engineer
- Location of all proposed and existing easements
- Description of method of water supply and location of facility
- Description of method of sewage disposal and location of facility
- Location, height, and size of all signs
- Location, height, quality, and design of lighting, power and communication facilities
- Description of smoke, noise, vibration, dust, odors, heat, and glare which the planned development will produce
- Vicinity map
- Environmental Assessment Form (EAF)
- Any other pertinent information as determined by the Planning Board.

The Planning Board shall approve, approve with modifications, or disapprove such application and shall report its findings to the Town Board within 62 days following the date of referral to the Town Planning Board by the Town Board.

The Planning Board shall hold a public hearing on any proposal to create or change a Planned Residential District, with public notice, as provided by law as in the case of any amendment to the Zoning Ordinance.

The Town Board may amend the Zoning Ordinance after a public hearing so as to establish and define the boundaries of the Planned District. Such action shall have effect only of establishing a Planned Residential Zone for the use as proposed by the preliminary plans filed with the Town Board. Such amendment of the Zoning Ordinance shall not constitute or imply a permit for construction or approval of construction plans. Any permit for a building project within a Planned Residential Zone shall be subject to approval of the project and the preliminary plans by the Planning Board and to approve of complete plans and specifications by the Zoning Officer.

In the event the Planning Board disapproves a Planned Residential Zone or a project within such district, or approves with modifications which the applicant is unwilling to make, an affirmative vote of not less than three-fourths (3/4) of the members of the Town Board shall be required to establish such Planned Zone.

An affirmative vote of not less than three-fourths (3/4) of the members of the Town Board shall be required to disapprove an application which has been approved by the Planning Board.

If construction work on the proposed development is not begun within time limits specified by the Town Board, or if such work is not completed within the period of time specified by the Town Board approval of the project, the application shall become null and void and all rights there under shall lapse, unless the Town Board for good cause authorizes an extension of either period. Such extension may be authorized without a public hearing.

All conditions imposed by the Town Board including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any certificate of occupancy issued for any use or structure in such development.

## **5.0 ARTICLE V - AREA AND HEIGHT REGULATIONS - Lots, Yards and Buildings**

### **5.1 Regulations in Schedule A**

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in Schedule A and in the additional regulations of Article V, and supplementary regulations of Article VI.

### **5.2 Area Regulations**

Area regulations are set as follows:

- **Lots of Less Than Required Dimensions:**
  - Any lot with an area or a width less than required in the Zone in which said lot is located may be used for any permitted principal use in the Zone, provided that all other regulations prescribed for the Zone shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this ordinance and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements
  - In the event that compliance with the yard and coverage requirements of the Zone would result in a residential structure of less width than 24 feet, the ZBA shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use
- **Reduction of Lot Area:**
  - The minimum yards and open spaces, including lot area per family, required by this ordinance shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the Zone requirements of this ordinance
  - Two permanent dwellings on one lot, other than group housing, shall be prohibited unless lot area and yard requirements of the Zone are met for each dwelling, including required street frontage. Except for accessory buildings to house farm help
- **Corner Lot:**
  - On a corner lot in any Zone where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a permit. The ZBA shall determine the yards and building width of a corner lot facing an intersecting street, and of record at the time of the passage of this ordinance, if the yard requirements would result in a residential structure less than 24 feet wide
  - **Visibility at Street Corners.** On a corner lot in any Zone where a front yard is required, no fence, hedge, wall or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines

- **Front Yard Exceptions:**
  - The minimum front yard of all principal buildings and structures hereafter constructed within a Residential Zone shall conform with Schedule A; and in addition shall be not be less than the average front yard of all principal buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within the 300-foot distance shall be considered as having the minimum front yard required in the Zone for the purpose of computing the average front yard
- **Transition Yard Requirements:**
  - Where two Zones abut on the same street between two intersecting streets, and the front yard requirements of one Zone are less than those of the other Zone, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the Zone boundary line in the less restricted Zone a front yard equal in depth to the average of the required depth in the two Zones
  - Where the side or rear yard of a lot in a Residential Zone abuts a side or rear yard of a lot in a Business or Manufacturing Zone, there shall be provided along such abutting line or lines in the Business or Manufacturing Zone a side or rear yard equal in depth to that required in the more restricted Zone, and in addition, a planting screen at least 10 feet wide may be required by the Town Board in an easement in any Business Zone
- **Projecting Architectural Features, Terraces, Porches, Fire Escapes:**
  - The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves, and other architectural features, provided, however, that such features shall not project more than two feet into any required yard
  - A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form of enclosure exceeding 6 feet in height
  - In determining the percentage of building coverage of the size of yards for the purpose of this ordinance, enclosed porches, or roofed porches, shall be considered a part of the building
  - An open fire escape may extend into any required yard not more than 6 feet provided that such fire escape shall not be closer than four feet at any point to any lot line
  - Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed 6 feet.
- **Walls, Fences, and Hedges.**
  - The yard requirements of this ordinance shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by Town Ordinance, provided that in any Residence Zone such fence, wall or Hedge shall be no closer to any street right-of-way line than two feet, and shall comply with visibility at street corners as provided in this Article. A fence in any front yard shall not exceed 48 inches in height from ground level
  - The use of Razor Wire fencing is prohibited in the Town
  - Any border line barbed wire (Refer to Town Law # 309) or electric fence containing 4 or more strands shall not be erected unless to contain livestock. Any single strand fence must be flagged every 10 feet
- **Communications Towers** - The area requirements for towers will be based on the tower height. The radius of the tower area will be equal or larger than the height of the tower plus 10%

### 5.3 Height Regulations

- **Chimneys, Spires, Towers, Agricultural silo etc:** - The height limitations listed in this ordinance shall not apply to belfries, church spires, cupolas, penthouses, silos and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, and necessary mechanical appurtenances usually carried above the roof level; nor to flag poles, monuments, transmission towers and cables, radio and television antennae or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. The applicant must go to the ZBA, on a case by case basis, and ask for an "interpretation" as to the height that will be permitted for their specific needs. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations
- **On Through Lots:** - On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street

### 5.4 Accessory Buildings and Structures: Type, Height and Location

- **Type.** On any lot intended or used primarily for residential purposes, accessory buildings such as private garage, storage building, or shed for use in connection with a proposed or existing dwelling, is permitted
- **Height.** Maximum height of the eaves of accessory buildings shall not exceed sixteen feet in height. Barns used for AGRICULTURAL PURPOSES ARE EXEMPT
  - Location. Accessory buildings which are not attached to a principal building may be erected in accordance with the following requirements:
    - All Set Backs - Refer to Schedule A
    - Not closer to a principal building than 10 feet
- **Attached Accessory Building** - When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this ordinance applicable to the principal building



## **6.0 ARTICLE VI - Events**

### **6.1 Event Classification**

Events in the Town of Newport shall be permitted for non-profit or profitable organizations to raise funds by permit only. Events will be categorized by various characteristics to include size of the event and impact on the surrounding neighborhood. A permit application fee per event will be applicable and dependent of the classification of the event. A security deposit to the town maybe applicable. For charitable organizations the permit application fee and the security deposit will be waived.

- a) **Size:**  
(S)mall – Attendance up to 500 per day  
(M)edium – Attendance between 500 and 1500 per day  
(L)arge – Attendance greater than 1500 per day

b) **Classification:**

The classification of an event will be based on the projected environmental impact resulting from the event. Factors to be considered include:

1. A substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems
2. The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources
3. The impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to SEQR 617.14(g)
4. The creation of a material conflict with a community's current plans or goals as officially approved or adopted
5. The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character
6. A major change in the use of either the quantity or type of energy
7. The creation of a hazard to human health
8. A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses
9. Changes in two or more of the above elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment

Based on the above factors three classification levels are identified. Meeting any of the above factors will require the promoter to provide any planned mitigation of the factor for review by the town. The three classification levels are as follows;

**Class 1 - No impact (doesn't meet any of above criteria)**

**Class 2** - Little impact (meeting 1 or more factors, SEQR environmental assessment form required but no environmental impact statement required)

**Class 3** - Major impact (meeting 1 or more factors, SEQR environmental impact statement required)

**c) Zone Restrictions**

Restrictions within the designated Zones within the town of Newport are as follows:

R1 - S1 Event

R2 - S1 and S2, M1 and M2

A - S1, S2, and S3, M1, M2, and M3, L1 and L2

B1 - S1, S2 and S3, M1, M2 and M3, L1, L2 and L3

B2 - Same as B1

PB - Same as adjacent Zone

RM - None

**d) Application Fee**

An application fee will be based on the size of the event. The application fee scale is:

(S)mall events - \$50

(M)edium Events - \$75

(L)arge Events - \$100

**e) Security Deposit**

A security deposit will be required based on the classification of the event. The security deposit is refundable based on the applicant's reasonable compliance with the conditions established in the permit issued. Reasonable compliance factors (i.e. 25% over projected attendance) will be established and agreed upon between the town and the event promoter at the time of issuing the permit for the event. The security deposit is scaled as follows.

Class 1 - None

Class 2 - \$500

Class 3 - \$1000

**f) Insurance**

The town requires liability insurance coverage for the event listing the town as "Additional Insured." In addition a Certificate of insurance is required to be submitted to the town. The limits of liability insurance are.

Class 1 - \$1,000,000

Class 2 - \$2,000,000

Class 3 - \$2,000,000

## 6.2 Exempted Organizations

- 1) The Town
- 2) Those properties owned entirely by educational institutions (chartered by the New York State Board of Regents and/or licensed by the New York State Department of Social Services); museums; non-profit emergency medical service organizations; fire departments and fire Zones; or non-profit civic, fraternal, historical (chartered by the New York State Board of Regents), veteran or patriotic organizations are exempted from the fees associated with this ordinance.

## 6.3 Application Process

Application (See Appendix 3 – Event Application) for any and all events shall be made to the Zoning Officer. The Zoning Officer will determine the Classification level of the event based on the application provided and the criteria established in Paragraph b) Classification. For Class 1 events the Zoning Officer will issue a permit upon his approval of the application. For Class 2 events where the determination is clear and unquestionably a Class 2 event the Zoning Officer will issue a permit upon his approval of the application. For Class 3 and questionable Class 2 events the Zoning Officer will refer the application within 10 days of application submittal to the Planning Board for review. The applicant shall furnish basic site data pertaining to the boundaries of the Event, existing zoning, and such preliminary plans and specifications as may be required for an understanding of the proposed Event.

The Zoning Officer and/or Planning Board may require such changes in said preliminary Event plans as are found to be necessary to meet the requirements of this ordinance. Additional requirements may be made as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote and protect characteristics of the community. The amount and depth of information required to make a determination is dependant on the size and classification of the proposed event. In reaching their decisions on the proposed Event and changes, if any, in the preliminary plans, the Planning Board and or Zoning Officer shall consider, among other things, the following:

- The purpose and size of the Event in the proposed location
- The existing character of the neighborhood
- The pedestrian circulation and open space in the Event area
- The traffic circulation features within the site, and the amount, location, and access to automobile parking areas
- The proposed location, type, and size of display signs, driveways, loading zones, and landscaping
- The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent properties and the neighborhood in general
- Storm drainage and sanitary waste disposal in and adjacent to the area

Event Plans submitted shall contain the following information:

- Name and address of owner of record

- Name and address of person, organization or firm promoting the Event and preparing the Event plan
- A map showing the Event property and adjacent properties and streets

#### For Class 3 Events

- The proposed use, location, height, design, and site elevation of all proposed buildings and structures, and existing buildings or structures
- Existing topography and proposed grade elevations at typical Geological intervals
- Location of all existing watercourses, intermittent streams, wetland areas, rock out-crops, wooded areas and any other significant existing features
- The general configuration of all existing and proposed public and private roads, drives and walkways
- Proposed final grades, including detailed information relative to methods to be used to retain, stabilize, and/or refurbish re-graded areas and the proposed plan for maintaining land stability and tree protection during construction
- Location of all parking and loading areas, with access and egress drives thereto
- Location of all traffic safety devices and directional flow of traffic
- Location of any outdoor storage and solid waste containers
- Description of method of water supply and location of facility
- Description of method of sewage disposal and location of facility
- Location, height, and size of all signs
- Location, height, quality, and design of lighting, power and communication facilities
- Description of smoke, noise, vibration, dust, odors, heat, and glare which the proposal will produce
- Vicinity map
- Environmental Assessment Form (EAF)
- Any other pertinent information as determined by the Planning Board

For Events determined questionable Class 2 by the Zoning Officer and forwarded to the Planning Board, the Planning Board will reply with comments to the Zoning Officer on its determination whether the Event should remain as a Class 2 or be upgraded to a Class 3 Event within 15 days of receipt of the application by the Planning Board.. If the Event is to remain a Class 2 the Zoning Officer will issue the permit upon his approval of the Event application. If the Event is upgraded to a Class 3 Event then the application will progress as follows.

For Class 3 events, the Planning Board shall approve, approve with modifications, or disapprove such fully completed application within 32 days of the Planning Board's receipt of the application.

Any permit for a Class 3 Event shall be subject to approval of the Event preliminary plans by the Planning Board and approval of complete plans and specifications by the Zoning Officer.

## **7.0 ARTICLE VII - SUPPLEMENTARY REGULATIONS**

### **7.1 Access to Improved Street**

- In any Zone, a lot to be used for building purposes shall have direct frontage on an improved street
- The required road frontage for a permitted use (ex. 250 feet for R1 Zones) must be continuous

### **7.2 Lots in Two Zones**

Where a Zone boundary line divides a lot in one ownership at the time of adoption of said Zone line, the regulations for the less restricted portion of such lot shall extend a maximum of 50 feet into the more restricted portion provided the lot has frontage on a street in the less restricted Zone.

The R1 Zone is classified as the most restricted Zone in the Town of Newport followed by R2, RM, A, B1, and B2 in this sequence with a B2 Zone being the least restricted.

### **7.3 Exchange of existing mobile home**

A single wide mobile may be replaced with another single wide mobile, doublewide, sectional or modular home, providing the following criteria are met:

- The minimum yard set backs must comply with those listed in Schedule A or conform to an existing variance
- The floor area of the replacement unit shall meet requirements of Paragraph 7.5

### **7.4 Drive-In Food Services**

Any drive-in restaurant building shall be located 100 feet or more from any private right-of-way. Such businesses, where persons are served in automobiles, shall be not closer than 400 feet to a Residential Zone. Arrangement of ingress and egress of vehicles, lights, fences, and screening shall be approved by the ZBA in such a way as not to interfere with uses in the Residential Zone.

### **7.5 Residential Living Area Requirements**

Minimum living areas measured from exterior faces of exterior walls, exclusive of garages and unenclosed porches, shall be as shown below. The floor area of a split level or split foyer dwelling shall be the sum of the ground level living area of each such floor.

| Zone  | Stories                       |               | Minimum Living Area              |
|---|-------------------------------|---------------|----------------------------------|
|   | One                           | More Than One |                                  |
| <b>R-1 Residential</b>  | X                             |               | 960 sq.ft. per first floor       |
|   |                               | X             | 800 sq. ft. per first floor      |
| <b>R-2 Residential</b><br>1 or 2 family dwelling units                | X                             |               | 864 sq.ft. per first floor/unit  |
|   |                               | X             | 720 sq.ft. per first floor/unit  |
| <b>R-2 Residential</b><br>5 or more family dwelling units             | By Special application to ZBA |               |                                  |
| <b>RM Mobile Home Residential</b><br>For 1 or 2 family dwelling units | X                             |               | 864 sq. ft. per first floor/unit |
|   |                               | X             | 720 sq. ft. per first floor/unit |
| <b>RM Mobile Home Residential</b><br>Mobile Home                      | X                             |               | 720 sq. ft. per first floor      |
| <b>A Agricultural</b>   | X                             |               | 864 sq. ft. per first floor/unit |
|   |                               | X             | 720 sq. ft. per first floor/unit |

## 7.6 Excavation and Grading

**STATEMENT OF INTENT.** The Town Board recognizes that sand, gravel, rock and mineral resources within its area are necessary and beneficial to the economy and welfare of the Town. To provide utilization of these resources in a manner compatible with nearby residential areas and to insure restoration of commercial excavation areas in such a manner as to conform with the Town Development Plan the following regulations are hereby established:

Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of topsoil, earth, sand, gravel, clay or other natural mineral deposits, or the quarrying of any kind of rock formation hereafter is subject to the following conditions:

- On any area of less than five acres, a permit shall be required from the ZBA for resale, excavation or grading, subject to compliance of this section
- On any area of five acres or more, an application shall be made to the Town Board for amendment of the Zoning Ordinance; and for a permit for commercial excavation subject to compliance with the following paragraph

Before issuing a permit for such use, the Town Board shall find that such excavation or quarrying will not endanger the stability of adjacent land or structures nor constitute a detriment to public welfare, convenience or safety by reason of excessive dust, noise, traffic, or other condition. The Town Board may specify any reasonable requirements to safeguard the public health, safety and welfare in granting such permit, including the following:

- The slope of material in such topsoil, sand, gravel, clay, and other earth shall not exceed the normal angle of repose of such material
- The top and the base of such slope shall not be nearer than 100 feet to any property line nor nearer than 100 feet to the right-of-way line of any street or highway

- A plan for restoration and rehabilitation of a commercial earth excavation area or borrow pit shall accompany the application for a permit and shall assure conformance with the public health, safety and welfare. The Town Board, upon approval of such plan, shall require a performance bond to assure rehabilitation of commercial excavation sites in conformance therewith.
- A plan for safeguarding the public health, safety and welfare in commercial rock or mineral excavation areas shall accompany the application for a permit and shall be approved by the Town Board.

### **7.7 Dump, Junk Yard or Automobile Salvage Yard**

The Town Board hereby declares that a clean, wholesome, attractive environment is important to the health and safety of the inhabitants of the Town and that the safeguarding of their material rights against unwarranted invasion is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its citizens.

No junk shall be visible from a highway or from a neighboring residence within 500 ft. No fluids from junk shall be drained or dumped on public or private property. No junk shall be buried or burned except in compliance with the New York State Solid Waste Disposal Law. Disposal and storage of junk shall comply with New York State and Herkimer County laws, rules and regulations.

No automobile salvage yard shall be operated or established hereafter in any area of the Town.

No dump shall be operated or established hereafter and no garbage, refuse, or other waste material shall be dumped or deposited in any area of the Town. This requirement shall not apply to a private dump on a farm for waste material produced on said premises. The farm private dump (that meets DEC Requirements) must be 300 feet from any highway, 200 feet from any stream or property line and be 500 feet from an existing dwelling on or off the farm property.

Winter storage of manure is not considered a dump, must be accordance with DEC regulations, 200 feet from stream or well. The manure must be removed by 1 June.

### **7.8 Signs**

Election related political signs are allowed in any area of the Town, but must be removed 10 days after the election.

Signs require permits and shall comply with the following regulations:

- In R-1 and R-2 Residential, R-M Mobile Home Residential, and A-Agriculture Zones, non-illuminated and advertising signs as follows:
  - One face of a nameplate, identification or professional sign not to exceed 6 square feet of sign area, showing the name or permitted home occupation of the premises
  - One face of a sign not to exceed 6 square feet of sign area pertaining to the sale, lease or rental of the land or building including real estate signs

- One face of a temporary sign not to exceed 6 sq. feet of sign area during and pertaining to construction, repairs or alterations on the property. Temporary signs are allowed for a period of 30 days
- Institutional or religious announcement sign not to exceed 15 sq. feet in area.
- Signs are allowed in the front yard
- Seasonal farm products signs not exceeding 24 square feet in area may be displayed on the Property, but only when such products are on sale
- Two off-premises directional signs not over 4 square feet in area and showing only the name of and direction to a legal, conforming use may be placed at a highway location, if the sign complies with county, state and local highway regulations
- All signs other than directional must refer to a use on the same parcel where the sign is located
- All signs in any Zone must be attached to posts anchored in the ground or attached to a residential dwelling or business
- In B-1 and B-2 Zones, advertising signs, as follows:
  - In any Business Zone, a business sign or signs directing attention to a business or profession conducted, or a commodity, service or entertainment offered or sold on the premises shall be permitted. The maximum area for one face of a sign shall not exceed 32 sq. ft. in area and the aggregate area for a sign shall not exceed 64 sq. ft. in area for hanging and pedestal signs. No such sign shall project into or over the public right-of-way nor above the roofline. In the case of a shopping center or other group of related buildings in addition to the general sign each individual unit may display an identification sign affixed flat against the wall of the building which shall not exceed 1 sq. ft. of sign for each foot of building frontage
  - If illuminated, the source of light shall not be visible from a public street or road or from an adjacent property
  - Non-illuminated real estate signs, of a temporary nature, not over 24 sq. ft. in aggregate area, advertising the sale, rental or lease of the premises on which they are located, are permitted
  - All signs must refer to a use on the same parcel where the sign is located

## **7.9 Prohibited Uses (not even by variance)**

- Certain uses are prohibited in RM, R-1 and R-2 Residential Zones, as follows:
  - Mobile Homes, as defined in Article II, Section 3 - Definitions
  - The keeping of split or cloven hoof animals, fowls, fur bearing animals or honey bees for any purpose
  - Dog kennels of all kinds
  - The burning of garbage or other material that cause obnoxious odors.
  - Trailers as defined in "Article II, Section 3 – Definitions" may be stored temporarily
  - Junk and/or Automobile Salvage Yards
- Certain uses are prohibited in A-Agricultural Zones, as follows:
  - Mobile Homes, as defined in "Article II, Section 3 – Definitions" shall not be used or stored in the Agricultural Zone, except by permit from the ZBA
  - Trailers as defined in Article II, Section 3, may be stored temporarily
- Certain uses are prohibited anywhere in the Town of Newport as follows:



- Migrant Labor Camps

## **7.10 State Environmental Quality Review Act (SEQRA)**

- In accordance with Article B of the Environmental Conservation Law of the State of New York and with 6-NYCRR 617 no state or local government or agency shall undertake, fund, or approve any action unless the action is reviewed in accordance with such rules and regulations unless an action is specifically exempt
- Area Variances for individual setbacks and lot lines are the only approvals or actions that may be granted or undertaken that are exempt from SEQRA. All other discretionary actions related to this ordinance, undertaken by the Town of Newport, or any of its agencies, are subject to SEQRA
- Any amendment to the text of this ordinance, any amendment to the Official Zoning Map, any special use permit, any use variance, and any area variance (other than provided in Article 4 Section 10 herein) must comply with SEQRA. Compliance with SEQRA shall consist of the following:
  - An Environmental Assessment Form (EAF) shall be completed by the applicant. The applicant shall use the Short Form EAF or the Long Form EAF as determined to be appropriate by the reviewing body
  - The reviewing body shall determine if the action is a Type I or Unlisted. A determination of Type II status ends the review. A determination of Type I status requires the completion of a Long Form EAF and the designation of a Lead Agency. Upon determining an action to be Unlisted the reviewing body may complete the review process, issue a positive or negative declaration, and approve or disapprove the action, unless another reviewing agency makes a Positive Declaration and determines that the project may have a significant environmental impact. A Positive Declaration requires the preparation of a Draft Environmental Impact Statement
- Upon a Positive Declaration on an EAF, the applicant may be required to advance into an escrow account an amount of funds equal to the costs which the Lead Agency anticipates to incur in the SEQRA. Any unspent funds from this account shall be returned to the applicant 5 business days after final action is taken upon the application or the application is withdrawn

## **7.11 Septic Systems**

All new septic systems must be designed, inspected and approved by a licensed engineer. Replacement of a septic system is considered a new system. All new and replacement septic systems require a permit.

## **7.12 Swimming Pools**

Above and in ground permanent pools are allowed in any Zone under the following conditions:

- Pools shall be a minimum of 50 ft. back from the front property line and 10 ft from the side and rear property line
- Full surround fencing a minimum of 4ft in height is required
- A permit is required for any pool installation

## 7.13 Solar

- Non- Commercial Installations

All solar installations that are integrated into the structures electrical system for residential and business require a permit from the codes officer and must meet state and local building codes. They must have a clearly marked disconnect switch. In addition an electrical inspection shall be required. Ground mounted collectors are not allowed in the front yard. Ground mounted solar collectors must be in the side or rear yard and shall comply with side and rear yard setbacks.

- Commercial Installations

Solar farms are permitted in an Agricultural zone and all Business zones with a Special use Permit and all applications are subject to planning board review. The following items shall be considered by the planning board before making a recommendation.

- A complete set of plans with a professional engineers stamp and signature shall accompany each application. A site plan that shows, collector layout and area, setbacks, vegetation, screening, fencing, storm water control, parking, access roads and accessory buildings shall be part of the application and general plan.
- A complete set of electrical plans and schematics of collectors and any hardware such as inverters, transformers, batteries, control panels, switch gear and disconnects. A copy of these plans must be given to the town clerk and the fire chief.
- A complete operation and maintenance manual shall be supplied to the town and fire chief. A clearly marked electrical disconnect sign that is easily recognized by emergency personal from a distance of at least 30 feet.
- Other issues to consider are signage such as "High Voltage, Danger, Disconnect Switch, or other warning signs, lighting, glare, transmission lines, and the height of collectors and accessory buildings. The view from public highway and adjoining neighbors as well as any compromise of the character of the neighborhood. A front yard and side yard setback of 100 feet and a rear yard setback of 50 feet will be required.
- The solar farm owner must provide 24/7 access to emergency response personal in the event of an emergency.
- The solar farm must be maintained in good condition and a decommission plan, with costs, shall be required in the event the plant is abandoned or decommissioned. The solar farm owner is solely responsible for the cost of decommissioning and removal of the solar farm if necessary. Bonding is required and shall be assessed on a case by case basis depending of the size of the installation.

## **8.0 ARTICLE VIII -OFF-STREET PARKING AND LOADING**

### **8.1 Automobile Parking Facilities**

Where one or more motor or other vehicle recurrently parks by reason of the use and occupancy of any premises, there shall be provided on or in convenient connection therewith adequate garage or vehicular parking spaces for the number in the proportion to the size of the vehicles which so park, the minimum to be not less than 200 square feet per automobile, in addition to driveway and backing and turning space. The recurrent parking of any such vehicle on the right-of-way of a highway or the impeding of traffic or creation of traffic hazards by the parking of any such vehicle shall be prima facie evidence of the failure to provide adequate and suitable garage or parking space on or in convenient connection with such premises.

Parking requirements for certain uses are specified in Schedule B. For uses not specified, the ZBA shall establish parking requirements, after recommendation of the Planning Board.

For any building having more than one use, parking shall be required for each use.

### **8.2 Off-Street Loading**

Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway.

**SCHEDULE B - OFF-STREET PARKING**

| USE   | MINIMUM SPACES REQUIRED  |
|---|--|
| 1. Dwellings  | 2 spaces for each dwelling unit.   |
| 2. Apartments   | 2 spaces for each dwelling unit.   |
| 3. Motel, hotel,  | 1 space for each guest room + 2 rooming house, bed spaces per 50 rental units.& breakfast  |
| 4. Administrative, professional, eleemosynary. governmental or utility office | 1 space for each 400 square feet of floor space.   |
| 5. Funeral home   | 1 space per 4 seats + 1 space per 2 employees, + 1 space for each vehicle used in business, plus space for all employees and resident personnel. |
| 6. Church, theater or other place of assembly                                 | 1 space for each 8 seating spaces in main assembly room.   |
| 7. Elementary school  | 2 spaces for each classroom  |
| 8. High school  | 4 spaces for each classroom.   |
| 9. College  | 1 space for each 5 students + 1 space for each faculty/staff member.   |
| 10. Hospital  | 1 space for each 2 beds + 1 space for each employee.   |
| 11. Nursing or convalescent home  | 1 space for each 4 beds + 1 space for each employee  |
| 12. Retail establishment  | 1 space for each 200 square feet of floor space devoted to customer use.   |
| 13. Shopping center   | 1 space per 200 square feet of retail area   |
| 14. Club or restaurant  | 1 space for each three customer seats + 1 space per two employees.   |
| 15. Bowling alley   | 5 spaces for each alley.   |
| 16. Wholesale, storage or freight terminal                                    | 1 space for each 1,000 square feet of gross floor area.  |
| 17. Industrial or or manufacturing use  | 1 space per two employees  |
| 18. Home occupation   | 1 space for each client or patient at any one time.  |

## **9.0 ARTICLE IX - NON-CONFORMING USES**

### **9.1 Continuation**

The lawful uses of any land or building existing at the time of adoption of this ordinance may be continued although such use does not conform with the provisions of this ordinance. Any such building may be reconstructed or structurally altered and the non-conforming use thereby changed, provided the following conditions prevail:

#### **Non-Conforming Use of Buildings and Mobile Homes**

- **Reconstruction or Alteration.** A non-conforming building may be reconstructed or altered during its life not to exceed 50 percent of its fair value, unless such alteration of the building results thereby in its change from a non-conforming to a conforming use as defined by this Ordinance. This restriction, however, shall not apply to farm buildings
- **Restoration.** A building, non-conforming as to use, which has been damaged by fire or other causes to the extent of 75 percent of its fair value shall not be repaired or reconstructed except in conformance with the regulations of the Zone in which such building is located or for the same non-conformance use
- **Discontinuance.** Whenever a non-conforming use has been discontinued for a period of 18 months, any future use of such building shall be in conformance with the regulation for the Zone in which it is located. This restriction, however, shall not apply to farm buildings
- **Changes.** A non-conforming use may not be changed to another non-conforming use under the provisions of this Section
- **Mobile Homes.** Mobile homes may be replaced, or added to, subject to the provisions of Article IX, Section 33 - Zoning Permit

#### **Non-Conforming Use of Land**

- The non-conforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this ordinance
- A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by non-conforming use at the time of adoption of this ordinance
- A non-conforming use of land shall not be changed to another non-conforming use.
- If a non-conforming use of land is discontinued for a period of 18 months it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the Zone in which the land is located
- The Discontinued land-use restrictions shall not apply to farm land. Any farm active prior to incorporation of this Zoning Ordinance may cease and restart farm operation at the discretion of the property owner as long as there is a minimum 10 acres of land. Acquiring land of multiple property owners to meet the 10 acre minimum to establish a farm in a non-agricultural Zone is not allowed

## **10.0 ARTICLE X – ADMINISTRATION**

### **10.1 Enforcement**

This ordinance shall be enforced by a Zoning Officer appointed by the Town Board. It shall be his duty to:

- Make a record of non-conforming uses and buildings existing at the time of the adoption of this ordinance and give written notice of non-conformity and of this ordinance to each owner and occupant of a non-conforming premises by service upon him personally or by certified mail addressed to him at his last known address
- Issue a zoning permit and when appropriate certificate of compliance with the provisions of this ordinance, and refuse to issue the same in the event of a non-compliance, giving prompt written notice of such refusal and the reason therefore to the owner of the premises. Advise the owner of the variance process
- Keep the Town Board advised of all matters other than routine duties, pertinent to the enforcement of this ordinance, and keep all records necessary and appropriate to his office and to file them in the office of the Town Clerk, including records of all permits and certificates of compliance issued or withheld
- Submit a report each month to the Town Board enumerating the applications received, inspections made and stating the action taken

Upon determination by the Zoning Officer that a violation of this ordinance exists, he shall send written notice to the last known owner of record of the property, as determined by the assessment records, informing said owner of the violation of specific provisions of this ordinance and stating that action is to be taken by said owner to resolve such violation in 20 days; or proceeding to compel compliance with the ordinance will be instituted.

### **10.2 Completion of Existing Buildings and Structures**

Nothing herein shall require any change in construction plans, construction or planned use of any building or structure under construction at the time of enactment of this ordinance, provided such building shall be completed within 1 year from the date of this ordinance or any amendment thereof; and provided further that a permit has been lawfully granted for said construction.

### **10.3 Zoning Permit**

No building, structure, mobile home, sign, pool, or fence except operational farm accessory buildings shall be erected, or added to, or replaced or structurally altered, or moved on site, nor shall any excavation or such begin, until a permit therefore has been issued by the Zoning Officer. All applications for such permits shall be in accordance with the requirements of all applicable codes and ordinances.

There shall be submitted with all applications for zoning permits, 2 copies of a layout or plot plan showing the actual dimensions of the lot to be built upon, the exact size and location of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance or as required by the Zoning

Officer. One copy of a layout or plan shall be returned when approved by the Zoning Officer, together with the permit.

A zoning permit shall be valid for one year from the date of issuance. Renewal permits may be issued upon reapplication.

#### **10.4 Certificate of Compliance**

- No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of Compliance shall have been issued by the Zoning Officer, stating that the buildings or proposed use thereof complies with the provisions of this ordinance
- No use shall be changed or extended without a review and approval of the certificate of compliance by the Zoning Officer
- All certificates of compliance shall be applied for coincident with the application for a zoning permit. The certificate of compliance must be approved within 10 days of project completion

The Zoning Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having interest.

## **11.0 ARTICLE XI - BOARD OF APPEALS and PLANNING BOARD**

### **11.1 Zoning Board of Appeals (ZBA)**

A ZBA is hereby established, it shall consist of 5 members and an Alternate each to serve for a term of 5 years. The term of office of the members of the ZBA and the manner of their appointment shall be in accordance with the provisions of the Town Law. Vacancies occurring in ZBA shall be filled for such un-expired period only.

#### **Powers and Duties**

The ZBA shall have all the power and duties prescribed by law and by this zoning ordinance, which are specified as follows:

- Interpretation:
  - Decide any question involving the interpretation of any provision of this ordinance
- Variances:
  - Area Variances

The ZBA shall have the power to grant area variances

Prior to final action upon any area variance the ZBA shall refer application to the Herkimer County Planning Board, as applicable, in accordance with Section 239-m of the General Municipal Law in the State of New York

The ZBA shall not take final action upon any area variance until it has undergone SEQR per Article 7 Sub paragraph 10 of this ordinance

In accordance with Section 267-b of the Town Law of the State of New York, in making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the ZBA shall also consider:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance
  - Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - Whether the requested area variance is substantial
  - Whether the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or Zone; and
  - Whether the need for the variance was self-created
- The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate,. The ZBA shall, in granting an area variance, have the authority to impose such reasonable conditions and restrictions that are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent



with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing the adverse impact such variance may have on the neighborhood or community

o Use Variance

The ZBA shall have the power to grant use variance. Prior to final action upon any use variance the ZBA shall refer application to the Herkimer County Planning Board, as applicable, in accordance with Section 239-m of the General Municipal Law in the State of New York

The ZBA shall not take final action upon any area variance until it has undergone SEQR per Article 7 Section 10 of this ordinance.

No such use variance shall be granted by the ZBA without the applicant showing that the applicable land use management regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the ZBA that for each and every permitted use under this Local Law for the particular Zone where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the Zone or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship is not self-created.

A use variance may be granted by the ZBA only upon demonstration by the applicant of all four (4) of the above criteria.

The ZBA in granting use variances shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and shall also preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

The ZBA, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

## **11.2 Planning Board**

A Planning Board is hereby established, it shall consist of 5 members and an Alternate each to serve for a term of 5 years. The term of office of the members of the Planning Board and the manner of their appointment shall be in accordance with the provisions of the Town Law. Vacancies occurring in Planning Board shall be filled for such un-expired period only.

### **Powers and Duties**

The Planning Board shall have all the power and duties prescribed by law and by this zoning ordinance, which are specified as follows:

### **Special Use Permits:**

To issue special use permits for any of the uses for which this Zoning Ordinance requires recommendation for approval for permit from the Planning Board, subject to the limitations prescribed by this ordinance. No such approval shall be granted by the Planning Board unless it finds that the use for which such permit is sought, will not, in the circumstances of the particular case and under any conditions that the Planning Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare. Approval recommendations will be provided to the Town Board for review and issuance of a permit by the Zoning Officer.

### **Standards for Special Use Permits:**

All Special uses possess characteristics of such unique and special form that each specific use shall be considered an individual case. Special uses permitted in any Zone require additional standards to the requirements of this ordinance. The following requirements and standards shall be met.

1. Public hearing proceeded by due notice.
2. Appropriate conditions and safeguards to be fixed by the Planning Board which shall determine in its judgment that:
  - a. It is reasonably necessary for the public health or general interest or welfare.
  - b. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities
  - c. The off-street parking spaces required are adequate to handle expected use.
  - d. Neighborhood character and surrounding property values are reasonably safeguarded
  - e. Use thereof will not cause undue traffic congestion or create a traffic hazard
  - f. Appropriate to the surrounding natural environment, both on an aesthetic and health and safety basis
  - g. Fulfillment of any other conditions or standards specified in this ordinance and especially those listed for specific uses in the following "Procedure" subsection
3. Additional standards deemed necessary before a special use permit may be issued for certain specific uses

Prior to final action upon any special use permit, the Planning Board shall refer application to the Herkimer County Planning Board, as applicable, in accordance with Section 239-m of the General Municipal Law in the State of New York.

The Planning Board shall not take final action upon any special use permit until it has undergone SEQR per Article 7 Sub-paragraph 10 of this ordinance.

### **11.3 Procedure**

The Lead Agency (ZBA or Planning Board) shall act in strict accordance with the procedures specified by law and by this ordinance. All applications made to the Lead Agency shall be in writing.

The Lead Agency shall hold a public hearing at which each application shall be heard. Such hearing shall be held as promptly as possible after the receipt by the Lead Agency of an application.

All Special Use permits are granted to the owner of said property and remain in effect until ownership changes. Upon change in property ownership the issued Special Use Permit becomes invalid. The new owner of the property, as long as the Special Use is consistent (reviewed by the Planning Board) with the previously issued Special Use permit, will be approved by the Planning Board without following the below process. A Special Use permit for the new owner can be tentatively approved prior to completion of ownership changes.

Every application shall refer to the specific provision of the ordinance involved and shall 1) exactly set forth the interpretation that is claimed, and 2) identify the use for which the special use permit is sought. The Lead Agency shall fix a reasonable time for a public hearing for every application and shall give public notice as follows:

- By publishing, in the official paper, a notice of the public hearing at least 10 days prior to the hearing date;
- At least 10 days before public hearing, mail notices to:
  - The parties involved
  - Adjoining property owners

### **11.4 Records**

Every decision of the Lead Agency shall be by resolution. Each resolution shall contain a full record of the findings of the particular case. Each such resolution shall be filed, together with all documents, in the office of the Town Clerk by case number under one or another of the following headings:

- Interpretations
- Area Variances
- Use Variances
- Special Use Permits

The Lead Agency shall notify, within five (5) business days, the applicant, Zoning Officer, Town Board and ZBA of each special permit use granted under the provisions of this ordinance.

**Fees and Costs:**

The Town shall impose on any applicant for any non-residential variance or special use permit the actual costs incurred by the ZBA or Planning Board for engineering advice, review or testing which are reasonably necessary for the Boards to fully evaluate any such application.

A late application fee of \$25 will be assessed for starting a project prior to submitting a Zoning application.

See paragraph 13.5 for further penalties.

## **12.0 ARTICLE XII - AMENDMENTS**

### **12.1 Amendments and Referral to Planning Board**

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this ordinance, including any map or maps, after public notice and hearing. Every such proposed amendment or change, whether initiated by the Town Board, or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of said public hearing on the proposed amendments and shall give notice as required by law.

Prior to final action upon any zone text or zone map amendment, the Town Board shall refer application to the Herkimer County Planning Board, as applicable, in accordance with Section 239-m of the General Municipal Law in the State of New York.

The ZBA shall not take final action upon any zone text or zone map amendment until it has undergone SEQR per Article 7 Section 10 of this ordinance.

### **12.2 Hearing on Proposed Amendment**

Before any amendment, supplement or change in the regulations or Zone boundaries, there shall be public notice and hearing thereon as provided by law. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request of the Town Board. In addition to the public notice of a hearing, notice shall be given in writing either personally or by mail, to all property owners of the land included in such proposed change, and the land immediately adjacent extending 500 feet there from, and land directly opposite thereto extending 500 feet from the street frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the Town.

Where more than 12 properties are included in such change and the Town Board by resolution determines that notice in writing to each property owner is not feasible, the notice of hearing shall be published in the official paper once a week for 3 successive weeks and shall be posted in public places in the Town of which 6 shall be in the area affected.

### **12.3 Protest Petition**

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of 20 percent or more of the area of the land included in such proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 500 feet there from, or by the owners of 20 percent or more of the land directly opposite thereto extending 500 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three fourths of the Town Board.

## **13.0 ARTICLE XIII - MISCELLANEOUS**

### **13.1 Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard shall govern.

### **13.2 Validity of this Ordinance**

The validity of this ordinance shall be assured by due process and any invalidity of any section shall not invalidate any other provisions of any other section of this ordinance.

### **13.3 Periodic Review of Zoning Ordinance**

From time to time, at intervals of not more than 5 years, the Planning Board shall reexamine the provisions of this ordinance and the location of Zone boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare; however, the provisions of this ordinance shall remain in effect until a new or amended ordinance is passed by the Town Board.

### **13.4 Misrepresentation**

Any permit or approval granted under this Law, which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void.

### **13.5 Violations and Penalties**

A violation of this ordinance is an offense punishable by a fine not exceeding \$350.00 dollars or by imprisonment for a period not exceeding 10 days or by both such fine and imprisonment. Each week of continued violation shall constitute a separate additional violation.

### **13.6 Effective Date**

The Town of Newport Zoning Ordinance shall take effect 10 days after publication and posting as required by law.

### **13.7 Repeal of Former Ordinance**

This ordinance entitled Town of Newport Zoning Ordinance adopted on Date **TBD** together with all changes and amendments thereto, is hereby repealed.

**Appendix 1 – Schedule A**

| Zone                              | Principal Use Permitted   | Minimum Lot Size in Acres | Road Frontage in Feet | % Max Lot Coverage | Bldg Height Maximum |      | Yard Set Back Dimensions Min in Feet From Property Line |      |      |                       |
|-----------------------------------|---|---------------------------|-----------------------|--------------------|---------------------|------|---|------|------|-----------------------|
|                                   |   |                           |                       |                    | Stories             | Feet | Front   | Side | Rear |                       |
| <b>Residential R1</b>             | One Family dwelling<br>Home Occupation  | 2                         | 250                   | 20                 | 2 1/2               | 35   | 50  | 50   | 50   |                       |
|                                   | Accessory Buildings<br>(rear Yard Only)   |                           |                       |                    |                     |      | N/A   | 10   | 10   |                       |
|                                   | Fire Station and other<br>Town Bldgs  | 2                         | 250                   | 20                 | 2 1/2               | 35   | 50  | 50   | 50   |                       |
|                                   | Bed and Breakfast   | 2                         | 250                   | 20                 | 2 1/2               | 35   | 50  | 50   | 50   |                       |
|                                   | Public and parochial<br>schools, church   | 3                         | 350                   | 20                 | 2 1/2               | 35   | 100   | 100  | 100  |                       |
|                                   | Hospital  | 3                         | 350                   | 25                 | 2 1/2               | 35   | 100   | 100  | 100  |                       |
|                                   | Nursing or convalescent<br>home   | 3                         | 350                   | 25                 | 2 1/2               | 35   | 100   | 100  | 100  |                       |
|                                   | Public park, playground   | 3                         | 350                   | NA                 | 2 1/2               | 35   | 100   | 100  | 100  |                       |
|                                   | Golf Course   | 10                        | 350                   | NA                 | 2 1/2               | 35   | 50  | 50   | 50   |                       |
|                                   | Key Hole Lot, Dwelling  | 5                         |                       |                    |                     |      |   |      |      | By Special Use Permit |
|                                   | Home Based Business   | 2                         |                       |                    |                     |      |   |      |      | By Special Use Permit |
| <b>Residential R2</b>             | All R-1 uses  | <b>SEE TABLE ABOVE</b>    |                       |                    |                     |      |   |      |      |                       |
|                                   | Multiple Dwellings of 2,3,<br>or 4 units  | 1 Per Unit                | 250                   | 20%                | 2 1/2               | 35   | 50  | 50   | 50   |                       |
|                                   | Accessory Buildings<br>(rear Yard Only)   |                           |                       |                    |                     |      | N/A   | 10   | 10   |                       |
|                                   | Home Based Business   |                           |                       |                    |                     |      |   |      |      | By Special Use Permit |
|                                   | Camp Ground, Retail<br>Store, Professional<br>Business Office,<br>Barber/Beauty Shop,<br>Nursery, Riding Stable |                           |                       |                    |                     |      |   |      |      | By Special Use Permit |
| <b>Mobile Home Residential RM</b> | One family dwelling/<br>Home Occupation   | 1                         | 150                   | 20%                | 2 1/2               | 35   | 50  | 30   | 30   |                       |
|                                   | Accessory Buildings<br>(rear Yard Only)   |                           |                       |                    |                     |      | N/A   | 10   | 10   |                       |
|                                   | Mobile Home   | 1                         | 150                   | 20                 | 1                   | 15   | 50  | 30   | 30   |                       |

| Zone                | Principal Use Permitted                                      | Minimum Lot Size in Acres | Road Frontage in Feet | % Max Lot Coverage | Bldg Height Maximum |    | Yard Set Back Dimensions Min in Feet From Property Line |     |     |
|---------------------|--|---------------------------|-----------------------|--------------------|---------------------|----|---|-----|-----|
|                     |  |                           |                       |                    |                     |    |   |     |     |
|                     | Neighborhood Park or Playground                              | 1                         | 150                   | N/A                | 1                   | 15 | 50  | 30  | 30  |
|                     | Home Based Business  | By Special Use Permit     |                       |                    |                     |    |   |     |     |
| <b>Agricultural</b> | Agricultural   | 10                        | 250                   | N/A                | NA                  | NA | 50  | 50  | 50  |
|                     | All Uses of R1 and R2  |                           |                       |                    |                     |    |   |     |     |
|                     | Accessory Buildings (rear Yard Only)                         |                           |                       |                    |                     |    | N/A   | 10  | 10  |
|                     | Camp   | 2                         | Easement              | 20%                | 2 1/2               | 35 | 300   | 50  | 50  |
|                     | Slaughter House  | By Special Use Permit     |                       |                    |                     |    |   |     |     |
|                     | Radio or television broadcasting studio                      | By Special Use Permit     |                       |                    |                     |    |   |     |     |
|                     | Boarding or rooming house, tourist home or Bed and Breakfast | 2                         | 250                   | 20                 | 2 1/2               | 35 | 50  | 50  | 100 |
|                     | Municipal or public utility stn. Or use                      | By Special Use Permit     |                       |                    |                     |    |   |     |     |
|                     | Tower  | By Special Use Permit     |                       |                    |                     |    |   |     |     |
|                     | Fish and Game Club   | 5                         | Easement              | N/A                | 2                   | 30 | 100   | 100 | 200 |
|                     | Public Park  | 2                         | 250                   | 20                 | 2                   | 30 | 50  | 50  | 50  |
|                     | Camp Grounds, Retail Store                                   | By Special Use Permit     |                       |                    |                     |    |   |     |     |
|                     | Commercial Saw Mill/Firewood Processor                       | By Special Use Permit     |                       |                    |                     |    |   |     |     |
| <b>Business B1</b>  | Professional or business office                              | 2                         | 250                   | 25                 | 2                   | 35 | 25  | 10  | 25  |
|                     | Municipal Building   | 2                         | 250                   | 25                 | 2                   | 35 | 40  | 10  | 25  |
|                     | Bank & Savings & Loan Institution                            | 2                         | 250                   | 25                 | 2                   | 35 | 25  | 10  | 25  |
|                     | Motel, Restaurant  | 2                         | 250                   | 30                 | 2                   | 35 | 40  | 10  | 25  |
|                     | Personal Services  | 2                         | 250                   | 25                 | 2                   | 35 | 25  | 10  | 25  |
|                     | Light Manufacturing  | 2                         | 250                   | 30                 | 2                   | 35 | 25  | 10  | 25  |



| Zone                       | Principal Use Permitted                          | Minimum Lot Size in Acres | Road Frontage in Feet | % Max Lot Coverage | Bldg Height Maximum | Yard Set Back Dimensions Min in Feet From Property Line |     |     |     |    |
|----------------------------|--|---------------------------|-----------------------|--------------------|---------------------|---|-----|-----|-----|----|
|                            | Public utility stn. Or use                       | By Special Use Permit     |                       |                    |                     |   |     |     |     |    |
|                            | Retail stores and shops                          | 2                         | 250                   | 30                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Laundromat                                       | 2                         | 250                   | 30                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Bakery, confectionery                            | 2                         | 250                   | 30                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Laundry or dry cleaning plant                    | 2                         | 250                   | 30                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Camp Ground                                      | 6                         | 250                   | 50                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Commercial amusement enterprise                  | 4                         | 250                   | 50                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Fish and Game/Gun Club                           | By Special Use Permit     |                       |                    |                     |   |     |     |     |    |
|                            | Undertaking parlor, mortuary or Crematory        | 2                         | 250                   | 30                 | 2                   | 35  | 25  | 25  | 50  |    |
|                            | Accessory Buildings (rear Yard Only)             |                           |                       |                    |                     |   |     | N/A | 10  | 10 |
| <b>Special Business B2</b> | Uses permitted in B-1                            |                           |                       |                    |                     |   |     |     |     |    |
|                            | Automobile, boat, farm implement sales or rental | 2                         | 250                   | N/A                | 1                   | 15  | 25  | 25  | 50  |    |
|                            | Mining or Commercial quarrying                   | 10                        | 100                   | N/A                | 2 1/2               | 35  | 100 | 100 | 100 |    |
|                            | Accessory Buildings (rear Yard Only)             |                           |                       |                    |                     |   |     | N/A | 10  | 10 |
|                            | Public Utility Station                           | By Special Use Permit     |                       |                    |                     |   |     |     |     |    |
|                            | Manufacturing                                    | By Special Use Permit     |                       |                    |                     |   |     |     |     |    |

|                            |                                   |   |     |     |  |    |    |    |
|----------------------------|-----------------------------------|---|-----|-----|--|----|----|----|
| <b>Planned Business BP</b> |                                   | 5 | 400 | N/A | Design to be approved for any use in this Zone | 50 | 50 | 50 |
|                            | Bank & Savings & Loan Institution |   |     | 30  |  |    |    |    |
|                            | Shopping center, retail store     |   |     | 30  |  |    |    |    |
|                            | Business or professional offices  |   |     | 30  |  |    |    |    |

| Zone                          | Principal Use Permitted        | Minimum Lot Size in Acres | Road Frontage in Feet | % Max Lot Coverage | Bldg Height Maximum                            | Yard Set Back Dimensions Min in Feet From Property Line |    |    |
|-------------------------------|--------------------------------|---------------------------|-----------------------|--------------------|--|---|----|----|
|                               | Sales office or agency         |                           |                       | 30                 |  |   |    |    |
|                               | Light manufacturing            |                           |                       | 30                 |  |   |    |    |
|                               | Development or research center |                           |                       | 30                 |  |   |    |    |
|                               | Printing, publishing plant     |                           |                       | 30                 |  |   |    |    |
|                               | Motel, Restaurant              |                           |                       | 30                 |  |   |    |    |
|                               | Data processing                |                           |                       | 30                 |  |   |    |    |
|                               | Accessory uses                 |                           |                       | 30                 |  |   |    |    |
| <b>Planned Residential RP</b> |                                | 10                        | 50                    | N/A                | Design to be approved for any use in this Zone | 50  | 50 | 50 |
|                               | One family dwelling            |                           |                       |                    |  |   |    |    |
|                               | Two family dwelling            |                           |                       |                    |  |   |    |    |
|                               | Multiple family dwelling       |                           |                       |                    |  |   |    |    |

# Appendix 2 – Zoning Map



**Appendix 3 – Event Permit**  
**TOWN OF NEWPORT - EVENT APPLICATION**

To be submitted 60 days prior to event. Class 3 event submittal required 90 days prior to event.

**Date of Application:**

**Name of Event:**

**Charitable/Non-Profit:** \_\_\_\_\_ **Other:** \_\_\_\_\_

**Date of Event:**

**Rain Dates:**

**Property Location:**

**Zoning Zone:**

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**Applicant or Responsible Officer:**  
**Name:**

**Address:**

**Phone Number:**  
**E-Mail Address:**

**Alt. Phone Number:**

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**Contact Person:** \_\_\_\_\_ **Same as Applicant**  
**Name:**

**Address:**

**Phone Number:**  
**Email Address:**

**Alt. Phone Number:**

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**Owner of Property:** \_\_\_\_\_ **Same as Applicant**  
**Name:**

**Address:**

**Phone Number:**  
**Email Address:**

**Alt. Phone Number:**

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**Manager of Event:** \_\_\_\_\_ **Same as Applicant**  
**Name:**

**Address:**

**Phone Number:**  
**Email Address:**

**Alt. Phone Number:**

**EVENT INFORMATION**

**Total Number of People per Day:** \_\_\_\_\_  
**Workers:** \_\_\_\_\_ **Spectators:** \_\_\_\_\_

**Duration:** \_\_\_\_\_ Day(s)

**Dates:**

**Date(s) for Setup:**

**Date(s) for Cleanup:**

**Hours of Operation:**

**Setup Time:**

**Event Start Time**

**Event End Time:**

**Cleanup/Closing Time:**

**Event Description:** (provide website if available)

Provide a description including a detailed explanation of the purpose of the event, the nature of the activities to be carried on, the objective and how the event is in compliance with Town Code. Additional sheets may be added if necessary.

**Local Groups, Organizations, Charities or Individuals** who will benefit from the proceeds of the event and who are designated to receive proceeds.

**Name:**

**Address:**

**Amount:**

**Name:**

**Address:**

**Amount:**

**SIGNAGE**

**Free Standing Signs ONSITE**

Number \_\_\_\_\_

Size \_\_\_\_\_

Location \_\_\_\_\_

**Free Standing Signs OFFSITE**

Number \_\_\_\_\_

Size \_\_\_\_\_

Location \_\_\_\_\_

**The following information must be submitted: A detailed map or plan, drawn to scale, showing all of the required elements listed below with a summary of items included on map, as well as all other applicable information and material required.**

Please indicate by check mark the following information which has been included.

Insert "N/A" if not applicable. No Blanks.

1.  Application Fee  
Small - 100 to 500 people/day - \$50  
Medium - 500 to 1500 people/day - \$75  
Large - Greater than 1500 people/day - \$100
2.  Comprehensive Liability Insurance Naming the Town of Newport as an additional insured.
3.  Copy of current contract or agreement with property owner.
4.  Detailed Map, Plan or Sketch, Showing the Following:  
Location, Size and Number of the Following checklist of items:
  - a.  Existing Building(s) or Structure(s)
  - b.  Proposed Temporary Building(s), Structure(s) or Trailer(s)
  - c.  All Access Roads Including Internal Circulation
  - d.  Tent(s) including size, number and location
  - e.  Stages, Decks, Bleachers, Platforms
  - f.  Areas of Assembly for Spectators, Vendors, Exhibitors
  - g.  Exits, Width(s) Specified
  - h.  Restrooms
  - i.  All Temporary Utilities
  - j.  All Audio Equipment
  - k.  Location of Fire Extinguishers, Fire Lanes, Water Supply
  - l.  Dumpsters, Trash Barrels
5.  Plan for Disposal of Garbage, Trash, Rubbish and Sanitary Waste and Sewage
6.  Parking Plan
7.  Plan and Drawing of all Signs
8.  Lighting Plan

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**PLEASE SUBMIT ORIGINAL APPLICATION, PLANS AND ALL DOCUMENTATION**

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I hereby depose and certify that all the above statements and information and all information and statements contained in the supporting documents and drawings attached hereto are true and correct. I hereby agree to provide notice in writing to the Town Clerk's Office immediately, should there be any material changes regarding the information submitted in this specification. I hereby authorize officials and employees of the Town of Newport to enter the property to make any and all inspections necessary in conjunction with this Event.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**FOR ZONING OFFICER USE ONLY**

Event Classification Information per Paragraph b) Classification of Ordinance. Review the below items and place an check mark where the event will have an impact.

- a.  A substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems
- b.  The removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources
- c.  The impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to SEQR 617.14(g)
- d.  The creation of a material conflict with a community's current plans or goals as officially approved or adopted
- e.  The impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character
- f.  A major change in the use of either the quantity or type of energy
- g.  The creation of a hazard to human health
- h.  A substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses
- i.  Changes in two or more of the above elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment

Based on the above factors three classification levels are identified. Meeting any of the above factors will require the promoter to provide any planned mitigation of the factor for review by the town. The three classification levels are as follows.

- Class 1** - No impact (doesn't meet any of above criteria)
- Class 2** - Little impact (meeting 1 or more factors, but no SEQR required)
- Class 3** - Major impact (meeting 1 or more factors, SEQR required)

This Event is classified as: (Zoning Officer to place an 'X' next the appropriate Class)

Class 1 Event

Class 2 Event

Class 3 Event

Date: \_\_\_\_\_

Zoning Officer Signature: \_\_\_\_\_