

CHAPTER 250: ZONING

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ARTICLE I. Title, Authority, Purpose and Community Development Objectives

§ 250-1. Title.

This chapter shall be known as and may be cited as the “Newport Borough Zoning Ordinance” (hereinafter referred to as “the chapter”).

§ 250-2. Authority.

This chapter is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, Act 247, The Pennsylvania Municipalities Planning Code, July 31, 1968, as reenacted and amended by Act 170, December 21, 1988. Editor’s Note: See 53 P.S. § 10101 et seq.

§ 250-3. Purpose.

This chapter is enacted for the following purposes:

A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public requirements.

B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers. This chapter is made in accordance with an overall program, and with consideration for the character of the Borough, its various parts for particular uses and structures.

C. To promote and to foster the community development goals and objectives as contained in the Newport Borough Comprehensive Plan, as adopted.

§ 250-4. Application of chapter.

No building, sign, or other structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this chapter. However, this chapter shall not require any change to any building, structure or use legally existing at the effective date of this chapter, or any amendment thereto; or any building, structure or use planned and construction started in compliance with existing laws prior to the effective date of this chapter, or any amendment thereto, and completed within a one-year period after the effective date of this chapter, or any amendment thereto, except as otherwise provided herein.

§ 250-5. Jurisdiction.

The regulations and provisions of this chapter shall apply to and affect the entire geographic area of the Borough of Newport, Perry County, Pennsylvania, as shown on the zoning map included herein. Editor's Note: The Zoning Map is on file in the Borough offices.

§ 250-6. Interpretation and validity.

A. Interpretation. In the interpretation and the application of the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes greater restrictions upon the use of buildings or premises or upon the height or bulk of a building or requires larger open spaces, the provisions of this chapter shall prevail.

B. Validity. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, unenforceable or invalid, such decision shall not affect its remaining portions. The Borough Council of the Borough of Newport hereby declare that it would have passed this chapter and each section and subsection thereof irrespective of the fact that any one or more of its sections, subsections, clauses, or phrases may be found by court to be unconstitutional or otherwise invalid.

C. No provision contained in this chapter is intended to discriminate against persons protected under federal or Commonwealth of Pennsylvania laws pertaining to equal opportunity, civil rights, the elderly or persons with disabilities.

Article II. Terminology

§ 250-7. Purpose.

For the purpose of this chapter, the terms and words listed in this part shall have the meaning herein defined.

§ 250-8. Word usage.

For the purpose of this chapter, the following rules of interpretation shall apply:

A. Words in the present tense include the future tense.

B. Words in the singular case include the plural, and words in the plural case include the singular.

C. The words "used" and "occupied" shall be construed to include the words "or intended, arranged or designed to be used as occupied, or offered for occupancy."

D. The term "such as" shall be considered as introducing a typical, or illustrative, designation of items and shall not be interpreted as constituting a complete list.

§ 250-9. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED VEHICLES

One or more motor vehicles which had been at one time licensed for use on public highways, but which are not presently so licensed and which do not presently have a current inspection and registration as required by the laws of the Commonwealth of Pennsylvania, including trailers, semitrailers and parts thereof.

ACCESSORY BUILDING

A subordinate use or building, the purpose of which is customarily incidental to that of the main use or building and on the same lot. Where any part of the wall of an accessory building is part of the wall of a main building, or where the accessory building is attached to the main building by a roof, including carports, however covered, such accessory building shall be deemed part of the main building.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use of the main building and located on the same lot with such principal use or main building.

ADULT BOOKSTORE

An establishment having as a substantial or significant proportion of its stock-in-trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this section, or an establishment with a segment or section devoted to the sale or display of such material.

AGRICULTURE

The cultivating of the soil, producing crops and raising livestock and, in varying degrees, the processing and marketing of products raised on the premises. AIR RIGHTS The right to use space above ground level.

ALLEY (or SERVICE DRIVE)

A minor right-of-way, publicly or privately owned, primarily for service access to the back or sides of properties. [Amended 1-8-2013 by Ord. No. 348]

ALTERATIONS

As applied to a building or structure, any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL

Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

AMENDMENT

A change in use in any district which includes revisions to the zoning text and/or the official Zoning Map; and the authority for any amendment lies solely with the Borough Council.

AMUSEMENT ARCADE

An establishment which has as its principal business offering to patrons mechanical or electrical amusement devices or games such as pinball machines, ping pong, darts, shooting galleries or similar devices and games.

ANIMAL HOSPITAL

A building used for the treatment, housing or boarding of small domestic animals such as dogs, cats, rabbits and birds or fowl by a veterinarian.

APARTMENT

A dwelling unit within a multiple dwelling. This classification includes apartments in apartment houses, bachelor apartments, garden, studio apartments and kitchenette apartments. Conversion apartments are not included in this classification.

APARTMENT (CONVERSION)

An existing dwelling unit that is or was converted to a dwelling for more than one family, without substantially altering the exterior of the building. APARTMENT (GARDEN) A two story multifamily dwelling, containing one-story dwelling units, under one ownership.

APARTMENT HOUSE

A building arranged, intended or designed to be occupied by three or more families living independently of each other.

APPLICANT

A landowner or developer who has filed an application for development including his heirs, successors and assigns.

APPLICATION FOR DEVELOPMENT

Every application, whether preliminary, tentative or final, required to be filed and approved prior to the start of construction or development including, but not limited to, an application for a building permit for the approval of a subdivision plat or plan or for approval of a development plan.[Amended 1-8-2013 by Ord. No. 348]

AREA (BUILDING)

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

AREA (LOT)

The area contained within the property lines of a lot, as shown on a subdivision plan excluding space within any street, but including the area of any easement.

ASSISTED-CARE RESIDENCE

Residences that provide rooms, meals, personal care and supervision of self-administered medication. They may provide other services such as recreational activities, financial services and transportation.

AUTO BODY SHOP

Any structure or any building or part thereof that is used for the repair or painting of bodies, chassis, wheels, fenders, bumpers and/or accessories of automobiles and other vehicles of conveyance.

AUTOMOBILE AND/OR MOBILE HOME SALES GARAGE

A building on a lot designed and used primarily for the display or sale of new and used cars and mobile homes where mechanical repairs and body work may be conducted as an accessory use incidental to the primary use.

AUTOMOBILE AND/OR MOBILE HOME SALES LOT

An open lot, used for the outdoor display or sales of new or used automobiles or mobile homes and where minor and incidental repair work (other than body and fender) may be done.

AUTOMOBILE GARAGE

A building on a lot designed and/or used primarily for mechanical and/or body repairs, storage, rental, servicing or supplying of gasoline and oil to automobiles, trucks or similar motor vehicles.

AUTOMOBILE SERVICE STATION

Any area of land, including any structures thereon, or any building or part thereof, that is used for the retail sale of gasoline, oil, other fuel, or accessories for motor vehicles, and which may include facilities used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles.

AUTOMOBILE WASHING (CAR WASH)

A building on a lot, designed and used primarily for the washing and polishing of automobiles and which may provide accessory services set forth herein for automobile service stations.

AUTOMOBILE WRECKING

The dismantling or wrecking of used automobiles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BAFFLE

A freestanding randomly located structure, fence like in nature and materials of construction, except that it is not normally attached to any building, does not particularly follow lot lines nor enclose a particular area, but rather screens one segment of one property from another for the primary purpose of assuring privacy; a baffle or screen of this nature may also be utilized for the support of various types of living plant materials such as vines, climbing roses or espaliered trees and shrubs.

BASEMENT

A story partly underground but having at least 1/2 of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or is used for business or dwelling purposes, other than a game or recreation room.

BEAUTICIAN SALON and BARBERSHOP

An establishment primarily engaged in providing services that include hair treatment, facials and manicures.

BED-AND-BREAKFAST

Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.

BILLBOARD

A sign constructed of a large panel designed to carry outdoor advertising.

BLOCK

An area bounded by streets.

BOARDING HOUSE

A building arranged or used for the lodging, with or without meals, for compensation, by more than five and not more than 20 individuals.

BUFFER YARD

See "yard, buffer."

BUILDING

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels, and including covered porches or bay windows and chimneys.

BUILDING AREA

The total area of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings.

BUILDING LINE

A line parallel to the front, side or rear lot line so as to provide the required setback. Editor's Note: The original definition of "building permit," which followed this definition, was repealed 1-8-2013 by Ord. No. 348.

BUILDING SETBACK LINE

The line within a property defining the required minimum distance permitted between any enclosed structure and the adjacent road right-of-way or property line. Such line shall be

measured at right angles from the front, side or rear street right-of-way or property lines which abut the property upon the property upon which said building and/or use is or is to be located and parallel to said right-of-way or property line.

BUILDING, DETACHED

A building surrounded by open space on the same lot.

BUILDING, FRONT LINE OF

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, MAIN

A building in which is conducted the principal use of the lot on which it is located.

BUILDING, NONCONFORMING

A building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

BUILDING, PRINCIPAL

A building in which is conducted the principal use of the lot on which it is located.

CAMPING GROUND

A parcel of land used by campers for seasonal, recreational or other similar temporary living purposes, in buildings of a movable, temporary or seasonal nature, such as cabins, tents or shelters.

CARPORT

A covered space, open on three sides, for the storage of one or more vehicles and accessory to a main or accessory building.

CARTWAY

That portion of a street or alley which is improved, designed or intended for vehicular use.

CELLAR

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the required number of stories.

CLEAR-SIGHT TRIANGLE

An area of unobstructed vision at street intersections. It is defined by lines of sight between points at a given distance from the intersection of the street(s) center line(s).

CLOTHES TAILOR

An establishment primarily engaged in making, repairing and altering of clothing and garments.

CODE ENFORCEMENT OFFICER

An appointee so classified, at any time, or from time to time, or can mean and include any other police officer or officer or designee appointed to enforce and implement the provision(s) hereof and also includes the Mayor or any member of Council so designated.

COIN-OPERATED LAUNDRY

A business premises equipped with individual clothes washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

CONDITIONAL USES

Conditional uses shall be allowed or denied by the Council after recommendations by the Planning Commission pursuant to express standards and criteria set forth in this chapter. Borough Council may approve uses similar to permitted uses as a conditional use. In granting a conditional use, the Borough Council may attach such conditions and safeguards as are deemed necessary to implement the purposes of the Pennsylvania Municipalities Planning Code, Editor's Note: See 53 P.S. § 10101 et seq. the Newport Borough Zoning Ordinance and the Newport Borough Comprehensive Plan.

CONDOMINIUM

Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONVENIENCE STORE WITH FILLING STATIONS

Any retail establishment offering the retail dispensing or sales of vehicular fuel and the sales prepackaged food products, household items, newspapers and magazines and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

COURT

An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COURT, INNER

A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable, and that the court does not extend to a street, alley, yard or other outer court.

COURT, OUTER

A court enclosed on not more than three sides by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

COVERAGE

That portion or percentage of the lot area covered by the building area.

CURB LEVEL

The officially established grade of the curb in front of the midpoint of the lot.

CUT

An excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

DAY CARE

A. DAY-CARE CENTER

A facility in which childcare is provided for seven or more children at any one time, for profit or not for profit, where the facility is not also being used as a family residence. A day-care center, if situated on the premises of an operating community service facility, including but not limited to a public or private school, place of worship, community center or library, and associated with that activity, shall be considered accessory to the principal use of the property concerned. Child-care services also may be provided as an accessory use to office, commercial or industrial uses, provided that such services are for the sole use of current employees of said business or industry.

B. COMMERCIAL DAY-CARE CENTER

A facility in which childcare is provided for seven or more children at any one time, for profit.

C. HOME DAY CARE

Any family residence, other than the child's own home, in which child day care is provided as an accessory use in the living areas of the residence. Child day care is provided, for profit or not for profit, to one to six children, who may not be relatives of the caregiver.

D. HOME DAY CARE, GROUP

Any family residence, in which child day care is provided as an accessory use in the living areas of the residence. Day care is provided, for profit or not for profit, for more than six but less than 12 children, who may or may not be relatives of the caregiver.

DECIDUOUS

Plants that drop their leaves before becoming dormant in winter.

DENSITY

The number of families, individuals, dwelling units or housing structures per unit of land.

DETERMINATION

Final action taken by the Borough Council or Zoning Hearing Board charged with the administration of this chapter or development applications. Determinations shall be appealable only to the Boards designated as having jurisdiction for such appeal.

DEVELOPER

Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures filling, grading, excavation, mining, dredging or drilling operations and the subdivision of land.

DISTRIBUTION PLANTS AND PARCEL DELIVERY

An establishment primarily engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle.

DISTRICT, ZONE

A district includes all buildings, lots and surface areas within certain designated boundaries as indicated on the Zoning Map.

DOG KENNEL

A structure where three or more dogs that are more than six months old are kept for commercial purposes.

DOUBLE DWELLING

A dwelling, house or residence containing or used for or as two dwelling units.

DRIVE-IN USE

An establishment which by design, physical facilities, service or by packaging procedures encourages or permit customers to receive services, obtain goods or be entertained while remaining in their motor vehicles.

DRUG STORE

A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines but where nonmedical products are sold as well.

DUMP

A lot or land or part thereof used primarily for disposal by abandonment, dumping, burial or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof or waste material of any kind.

DWELLING

A building or structure designed for living quarters for one or more families, including mobile homes which are supported either by a foundation or are otherwise permanently attached to the land but not including hotels, rooming houses or other accommodations used for transient occupancy.

DWELLING GROUP

A group of two or more single-family, two-family or multifamily dwellings occupying a lot in one ownership.

DWELLING UNIT

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

DWELLING UNIT (N)

One or more rooms used for living and sleeping purposes and having a kitchen(s) with fixed cooking facilities, toilet and bathroom facilities and arranged for occupancy by not more than one family.[Amended 1-8-2013 by Ord. No. 348]

DWELLING UNIT (ON OR ABOVE THE SECOND FLOOR)

A room, groups of rooms or combination of rooms on or above the second floor, where one person lives, or more than one person live together, or used or suitable for occupancy as a living quarters; a residential unit maintained as or for a household or family; a room or rooms consisting generally, but not in all cases, of kitchen, bathroom, living and bedroom; typically, said unit is served by a separate utility service such as electric, water, sewer or being a separately insurable unit for purposes of a renter or homeowner insurance policy. A single unit may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption and may also include domestic servants and gratuitous guests.

DWELLING, MULTIFAMILY

A building used by three or more families living independently of each other and doing their own cooking, including apartment houses.

DWELLING, SINGLE-FAMILY ATTACHED (ROW OR TOWNHOUSE)

A building used for one family, having one side yard and one party wall in common with another building.

DWELLING, SINGLE-FAMILY DETACHED

A freestanding building containing one dwelling unit for one family and having two side yards, one front and one rear yard; in the case of corner lots, the building will have two front yards and one side and one rear yard. Travel trailers shall not be construed as dwellings. Modular homes can be considered single-family detached dwellings so long as they comply with the general requirements of a dwelling.

DWELLING, SINGLE-FAMILY, SEMIDETACHED

A building used by one family, having one side yard and one-party wall in common with another building. [Amended 1-8-2013 by Ord. No. 348]

DWELLING, TWO-FAMILY, DETACHED (DUPLEX)

A building used by two families, with one dwelling unit arranged over the other, having one side yard and one-party wall in common with another building.

EASEMENT

A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

ELDERLY HOUSING

A. A multifamily development devoted entirely for the provision of housing for a family whose head or spouse (or sole member) is: (1) An elderly person, which is a person who is at least 62 years of age. (2) A disabled person, which is a person who is under a disability as defined in § 223 of the Social Security Act (42 U.S.C. § 423) or who has a developmental disability as defined in § 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. § 15002). (3) A handicapped person, which is a person having a physical or mental impairment that is expected to be of a long, continued and indefinite duration, which substantially impedes the person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions.

B. An elderly family may include two or more elderly, disabled or handicapped persons living together or one or more of these persons living with one or more live-in aides, which is a person who resides with an elderly, disabled or handicapped person to provide supportive services.

ELECTRIC SUBSTATION

An assemblage of equipment for purposes other than generation or utilization, through which electric energy in bulk is passed for the purpose of switching or modifying its characteristics to meet the needs of the general public.

ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITIES

Electric public utilities transmission distribution facilities, including substations.

EMERGENCY SERVICES

Fire, ambulance, rescue, paramedic and related services which are provided in the Borough.

ENGINEER

A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for the Borough.

ENGINEERING SPECIFICATIONS

The engineering specifications of the Borough regulating the installation of any required improvement or for any facility installed by any owner, subject to public use.

EROSION

The removal of surface materials by the action of natural elements.

EXCAVATION

Any act by which earth, sand, gravel, rock or any other similar materials is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

FACADE

The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

FAMILY

One person or two or more persons, related by blood, foster relationship, marriage or adoption, and, in addition, any domestic servants or gratuitous guests thereof; or one or more persons who need not be so related, and, in addition, domestic servants or gratuitous guests thereof, who are living together in a single, nonprofit dwelling unit and maintaining a common household with single cooking facilities. A roomer, boarder or lodger shall not be considered a member of the family.[Amended 1-8-2013 by Ord. No. 348]

FARM MACHINERY SALES/REPAIR

An establishment primarily engaged in furnishing farm machinery repair, service, sales and leasing.

FENCE

Any freestanding and uninhabitable structure constructed of wood, glass, metal, plastic materials, wire, wire mesh or masonry, singly or in combination, erected for the purpose of screening or dividing one property from another to assure privacy, or to protect the property so screened or divided, or to define and mark the property line, when such a structure is erected on any front, side or rear lot line; for the purpose of this chapter, a freestanding masonry wall when so located is considered to be a fence; also, for the purpose of this chapter, when the term "lot line" is used in relation to fences, it shall be synonymous with "rear lot lines," side yard lot lines" and "front yard lot lines." Fences are not synonymous with "garden structures," which are defined elsewhere herein.

FILL

Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade. The material used to make a fill.

FLOOD

A temporary inundation of normally dry land areas.

FLOOD FRINGE

That portion of the floodplain outside the floodway.

FLOOD, BASE (ONE-HUNDRED-YEAR FLOOD)

A flood that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year, although the flood may occur in any year).

FLOODPLAIN A.

A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation. B. An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments to proposed or existing structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

The designated area of a floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of this chapter, the floodway shall be capable of accommodating a flood of the one-hundred-year magnitude without increasing the water surface elevation more than one foot at any point.

FLOOR AREA OF A BUILDING

The sum of the gross horizontal areas of the several floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not used as primary living and sleeping quarters, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RETAIL, NET

All that space relegated to use by the customer and the retail employee to consummate retail sales and to include display area used to indicate the variety of goods available for the customer but not to include office space, storage space and other general administrative areas.

FLOOR AREA, HABITABLE

The aggregate of the horizontal areas of all rooms used for habitation, such as living room, dining room, kitchen, bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathroom, closets nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the habitable floor area.

FUNERAL HOMES AND MORTUARIES

A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

GARAGE, PRIVATE

An enclosed or covered space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage other than a private garage, and which is used for storage, repair, rental, servicing or supplying of gasoline or oil to motor vehicles.

GARDEN STRUCTURES

Any accessory structure which may be occupied for other than sleeping or general housekeeping purposes, or which serves as a shelter primarily for human beings, except a permitted garage, porch or carport, which is located in any side or rear yard not closer than three feet to any side or rear lot line; included in this category of structures are arbors, aviaries, pergolas, trellises, barbecue shelters, lathe house, private greenhouse and freestanding screens or baffles and similar structures as however called. No such structure may be located in any required front yard between the building setback line and the street line. Such structures may be solidly roofed and walled or open to the sky and on the sides, but if solidly roofed or solidly walled on more than two sides, they must be located within the building line of the lot and may not invade any required yard. Unscreened, unroofed, unwalled or unfenced patios, bird baths, ornamental pools and swimming pools are not considered as garden structures. Permitted structures may be attached to or be detached from a dwelling.

GARDENING

The cultivation of herbs, fruits, flowers or vegetables, excluding the keeping of livestock.

GOVERNING BODY

The Borough Council of Newport, Perry County, Pennsylvania.

GRADE ESTABLISHED

The elevation of the center line of the streets as officially established by the municipal authorities.

GRADE, FINISHED

The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROUND FLOOR

The floor of a building nearest the mean grade of the front of the building.

GROUP HOME

A dwelling operated with a program to provide a supportive living arrangement for individuals where special care is needed by the individual served due to age, emotional, mental or physical handicap. This definition shall expressly include facilities for the supervised care of developmentally disabled persons but does not include a halfway house. Group homes must be licensed where required by any appropriate government agencies,

and a copy of any such licenses must be delivered to the Borough prior to beginning the use. Group homes shall be subject to the same limitations and regulation by the Borough as single-family dwellings.

HABITABLE SPACE

Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

HEALTH AND FITNESS CENTERS

An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, saunas, showers, massage room and lockers.

HOME OCCUPATION

Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than signs as provided herein.

HOSPITAL

An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

HOTEL

A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms and recreation facilities.

INCINERATOR

An approved device in which combustible material, other than garbage, is burned to ashes.

INDUSTRY

The manufacturing, compounding, processing, assembly or treatment of materials, articles or merchandise.

JUNKYARD

A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

LAND DEVELOPMENT

Any of the following activities:

A. The improvement of a lot, tract or parcel of land for any purpose involving:

(1) A residential or nonresidential building, whether proposed initially or cumulatively, or single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or

(2) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

C. Land development does not include development which involves:

(1) The addition of an accessory building, including farms buildings on a lot or lots subordinate to an existing principal building; or

(2) The addition or conversion of buildings or rides within the confines on an enterprise which would be considered an amusement park. For the purposes of this subsection, an "amusement park" is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area has been approved by the proper authorities.

LANDOWNER

The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any conditions), a lessee having a remaining term of not less than 40 years, or other person having a proprietary interest in land, shall be deemed to be a landowner for the purpose of this chapter.

LAUNDERETTE

A business premises equipped with individual clothes washing and/or drying machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel. LIBRARIES A place in which literary and artistic materials, such as books, newspapers, magazines and tapes are kept for reading, reference or lending.

LIGHTING A. DIFFUSED

That form of lighting wherein the light passes from the source through a translucent cover or shade. B.

DIRECT or FLOOD

That form of lighting wherein the source is visible and the light is distributed directly from it to the object to be illuminated. C.

INDIRECT

That form of lighting wherein the light source is entirely hidden, the light being projected to a suitable reflector from which it is reflected to the object to be illuminated.

LOADING BERTH/SPACE

An off-street area on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street or other appropriate means of access.

LODGING HOUSE (ROOMING HOUSE)

Any building or portion thereof containing not more than five guests where rent is paid in money, goods, labor, or otherwise.

LOT

Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling up and its accessory buildings, together with such open space as required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated, and having its principal frontage on a street.

LOT LINES

The lines bounding a lot as defined herein.

LOT OF RECORD

A lot which has been recorded in the Office of the Recorder of Deeds of Perry County, Pennsylvania.

LOT WIDTH

The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

LOT, CORNER

A lot abutting on two or more intersecting streets and are defined as having two front yards each having the same lot width and equal depth and shall be subject to all front yard requirements of this chapter.

LOT, DEPTH OF

The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE

An interior lot having frontage on two streets.

LOT, INTERIOR

A lot other than a corner lot.

LOT, MINIMUM WIDTH

The minimum lot width at the building setback line.

LOT, NONCONFORMING

A lot of record prior to the enactment of this chapter, which by reason of area or dimension does not conform to the requirements of the district in which it is located.

LOT, REVERSE FRONTAGE

A lot extending between and having frontage on an arterial street and a minor street, and with vehicular access solely from the latter.

MAJOR THOROUGHFARE

A street or highway designated as an existing or planned major thoroughfare.

MANUFACTURING

The processing and/or converting of raw unfinished or finished materials, or products, or any, or either of them, into an article or substance of different character, or for use for a different purpose; industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

MASSAGE

Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external parts of the human body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided or some third person on his or her behalf will pay money or give any other consideration or any gratuity therefor.

MASSAGE PARLOR

Any establishment having a source of income or compensation derived from the practice of massage and which has a fixed place of business where any person, firm, association or corporation engages in or carries on the practice of massage.

MEDICAL/DENTAL CENTERS

An establishment containing the offices of two or more physicians, dentists, physical therapists, pharmacists, optometrists, and other health care professionals primarily engaged in furnishing outpatient medical, surgical rehabilitative or other services to individuals.

MIXED OCCUPANCY

Occupancy of a building or land for more than one use.

MOBILE HOME

A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation.

[Amended 1-8-2013 by Ord. No. 348]

MOBILE HOME LOT

A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK

A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use, consisting of two or more mobile home lots.

MOTEL

A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances and designed for year round occupancy, primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, tourist cabins, motor lodges and similar terms.

MUNICIPAL BUILDINGS AND FACILITIES

A use owned by the Borough for governmental purposes.

NATURAL LAND RESERVE

Land in its original state in which human activities are very limited and the natural environment is protected from man-made changes.

NO-IMPACT HOME-BASED BUSINESS

A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client, or patient traffic, whether vehicular or pedestrian, pickup, delivery, or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements: [Added 1-8-2013 by Ord. No. 348]

A. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

B. The business shall employ no employees other than family members residing in the dwelling.

C. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

D. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

E. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

F. The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood.

G. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

H. The business may not involve any illegal activity.

NONPROFIT ORGANIZATION

An organization which is exclusively within the meaning of § 501(c)(3) of the Internal Revenue Code of 1954.

NURSERY, HORTICULTURE

Any lot or parcel of land used to cultivate, propagate and grow trees, shrubs, vine and other plants including the buildings, structures and equipment customarily incidental and accessory to the primary use.

NURSING OR CONVALESCENT HOME

A building with sleeping rooms where persons are housed or lodged and furnished with meals, nursing care for hire and which is approved for nonprofit agencies licenses for profit making operations by the Pennsylvania Department of Public Welfare for such use.

OBSTRUCTION

Any wall, dam, wharf, embankment, levee, dike, projections, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

OCCUPANCY PERMIT

A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable ordinances. OFFICE BUILDING A building designed or used primarily for office purposes, no part of which is used for manufacturing.

OFFICE, PROFESSIONAL

A room or rooms used for the carrying on of a profession to include physicians, dentists, architects, engineers, accountants, attorneys, real estate brokers, insurance agents entitled to practice under the laws of the Commonwealth of Pennsylvania.

OPEN SPACE

The unoccupied space open to the sky on the same lot with the building not including parking lots.

OPEN SPACE, COMMON

Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.

OUTDOOR STORAGE

The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

PARKING LOT

Any lot, municipally or privately owned for off-street parking facilities, providing for the transient storage of automobiles or motor-driven vehicles. Such parking services may be provided as a free service or may be provided for a fee.

PARKING SPACE

An attached or unattached garage or carport on the premises and that portion of the driveway off the public right-of-way measuring no less than 10 feet by 19 feet, excluding drives and accessways.

PARKS AND RECREATION

A tract of land, designated and used by the public for active and passive recreation.

PARTY WALL

A common shared wall between two separate structures, buildings or dwelling units.

PERMIT

A document issued by the Borough of Newport authorizing an applicant to undertake certain activities, as further defined below:

A. BUILDING PERMIT

A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any building code adopted by the Borough of Newport, which authorizes an applicant to commence with said construction, alteration or reconstruction. Such a permit shall not be confused with a zoning permit or with an occupancy permit as may be required under the terms of this chapter.

B. OCCUPANCY PERMIT

A permit issued upon completion of the construction of a structure or change in use of structure or parcel of land indicating that the premises comply with the provisions of this chapter and may be used for the purposes set forth in the occupancy permit.

C. ZONING PERMIT

A permit issued indicating that a proposed use, building, or structure is in accordance with the provisions of this chapter or with an order of the Zoning Hearing Board or Council and authorizing an applicant to proceed with said use, building or structure.

PERMITTED USE

Any use which does not require special action by the Planning Commission, the Zoning Hearing Board or the Council before a zoning permit is granted by the Zoning Officer.

PERSON

Any individual or group of individuals, partnership, or corporation.

PERSONAL SERVICES

Includes the following services: laundry cleaning and drying, linen supply, carpet and upholstery cleaning, beauty and haircut, shoe repair, tax return, rental services including

recreational equipment, costumes, formal wear, weight loss, massage and chiropractic, tanning, tattoo, and other similarly related services.

PLACES OF WORSHIP

A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses. Associated parking lots can be located on separate but adjacent lots.

POLICE STATION

A building for the housing of the police and related activities.

PORCH

A covered area in excess of four feet by five feet or 20 square feet in area at a front, side or rear door.

PORCH A

roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building.

POSTER

A sign made from lightweight cardboard or paper.

PREMISES

Any lot, parcel or tract of land and any building constructed thereon.

PRIVATE

Not publicly owned, operated or controlled.

PRIVATE PROPERTY

Any property not owned or leased by the government of the United States, the Commonwealth of Pennsylvania, or any political subdivision thereof.

PRIVATE ROAD

A legally established right-of-way, other than a public street, which provides the primary vehicular and/or pedestrian access to a lot.

PROFESSIONAL OCCUPATION

The practice of a profession by any attorney, physician, surgeon, osteopath, chiropractor, dentist optician, optometrist, chiropodist, engineer, surveyor, architect, landscape architect, or planner entitled to practice under the laws of the Commonwealth of Pennsylvania.

PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES

Includes the following services: medical and health-related services, dental, chiropractic, insurance agents and brokers, real estate, financial investment, accounting and payroll, architectural, drafting and engineering, notary, advertising and public relations, credit and collection, reporting, printing, stenographic and court reporting, commercial and studio photography, videography and graphics, direct mail advertising, commercial and graphic design, pest control, roto roter, building maintenance cleaning, employment, medical equipment rental, computer systems design and related, management consulting, human resources and executive

search consulting, marketing and logistics consulting, environmental consulting, translation and interpretation, veterinary and other similarly related services.

PROJECTING (FROM BUILDING WALL)

A sign attached to and projecting more than 12 inches from a building, fence, structure or wall. The definition of a wall includes, but is not limited to, buildings, fences and retaining structures.

PUBLIC

Owned, operated or controlled by a government agency (federal, state or local, including a corporation created by law for the performance of certain specialized governmental functions and the Board of Public Education).

PUBLIC GROUNDS

Includes: [Amended 1-8-2013 by Ord. No. 348]

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas.
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.
- C. Publicly owned or operated scenic and historic sites.

PUBLIC NOTICE

Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.[Amended 1-8-2013 by Ord. No. 348]

PUBLIC UTILITY FACILITIES

Public utility transmission distribution facilities including substations and the like.

RECREATIONAL VEHICLE

A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which has its own motor power or is mounted or drawn by another vehicle; having a body width of no more than eight feet and a body length of no more than 35 feet when factory equipped for the road, and licensed as such by the Commonwealth to include, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

RESTAURANT

An establishment where food and drink are prepared, served and consumed primarily within the principal building but can provide for incidental carry-out and catering services.

RETAIL SERVICES

Includes the sale or rental of the following: building materials, hardware, garden supplies, general merchandise, grocery store, automotive parts, apparel and accessories, shoes and boots, home furniture and furnishings, video and digital video disk, consignment apparel and furniture, toy and hobby, antiques, art, bakery, candy, ice cream and nuts and other similar items.

RIGHT-OF-WAY

A. A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation, and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

B. Generally, the right of the one to pass over the property of another.

RIGHT-OF-WAY, STREET

A public thoroughfare for vehicular traffic and/or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, alley or however designated.

ROOMING HOUSE

A detached building arranged or used for sheltering, or sheltering and feeding, or more than five and not more than 10 individuals that do not constitute a family.

ROW OR TOWNHOUSE

See “dwelling, single-family attached.”

RUNOFF

The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

SATELLITE DISH

A ground-based reflector, usually parabolic, together with any pedestal and any other attachments and related structures or parts, intended for use to receive electronic signals from a satellite.

SCHOOL

A principal use in which supervised education or instruction is offered according to the following categories.

A. COMMERCIAL SCHOOL

A school that may offer a wide range of educational or instructional activities (excluding vocational-mechanical trade schools as defined below) that may, or may not, be operated as a gainful business by some person or organization other than the school district.

B. PRIVATE SCHOOL

A school that offers elementary, secondary, postsecondary and/or postgraduate education that may, or may not, be operated as a gainful business.

C. PUBLIC SCHOOL

A school licensed by the Department of Education for the purpose of providing elementary, secondary and adult education and operated by the School District.

D. VOCATIONAL-MECHANICAL TRADE SCHOOL

A school that may, or may not, be operated as a gainful business that principally offers training in any of the following occupations:

- (1) Truck driving.
- (2) Beautician, skin care and health education.
- (3) Computer programming and/or graphic design.
- (4) Video or multimedia technical education and training.
- (5) Engineer repairs.
- (6) Building construction and general contracting.
- (7) Woodworking.
- (8) Masonry.
- (9) Plumbing.
- (10) Electrical contracting.
- (11) Other similar trades, as determined by the Zoning Hearing Board pursuant to § 250-148.

SCREEN PLANTING

A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining residential districts the structures and uses on the premises on which the screen planting is located.

SERVICE INDUSTRIES

Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises.

SETBACK

The required horizontal distance between a setback line and a property or street right-of-way line.

A. SETBACK, FRONT

The distance between the street right-of-way line and the building setback line projected the full width of the lot.

B. SETBACK, REAR

The distance between the rear lot line and the rear setback line projected the full width of the lot.

C. SETBACK, SIDE

The distance between the side lot line and the side setback line projected from the front yard to the rear yard.

SHOPPING CENTER

A group of stores planned and designed to function as a unit for the lot on which it is located with off-street parking provided as an integral part of the unit.

SIGHT DISTANCE

The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

SIGN

Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

A. ADVERTISING

A sign intended for the painting, posting or otherwise displaying of information inviting attention to any product, business, service or cause not located on or related to the premises on which the sign is situated.

B. BILLBOARD SIGN

A sign that is freestanding or attached to a building which directs attention to an object, product, service, place, activity, person, institution, organization or business that is primarily offered or located at a location other than the lot upon which the sign is located. This sign shall not include an official sign or any directional sign specifically permitted by this chapter.

C. BUSINESS SIGN

A sign for a permitted use, including a nonconforming use, conducted on the premises, which sign shall identify the written name and/or the type of business and/or an article for sale or rent on the premises or otherwise call attention to a use conducted on the premises.

D. FLAG

A banner or pennant made of fabric or materials with a similar appearance that is hung in such a way to flow in the wind and that includes some type of commercial message. Governmental flags and flags without a commercial message are not included in this definition.[Amended 1-8-2013 by Ord. No. 348]

E. FLAT WALL SIGN

A sign placed on or parallel to the surface of a building and projecting not more than 12 inches.

F. FREESTANDING SIGN

A sign erected upon a permanently affixed, independent structure (legs or base).

G. FREESTANDING PORTABLE SIGN

A freestanding sign which is readily portable and has no means of attachment to a structure or the ground, but which is held in place solely by gravity.

H. FREESTANDING (POST) SIGN

A sign supported by upright post (posts) anchored in the ground.

I. IDENTIFICATION SIGN

Sign for a permitted use, including a nonconforming use, conducted on the premises displaying the name of the premises.

J. INSTRUCTIONAL SIGN

A sign conveying instructions with respect to the use of the premises or a portion of the premises on which it is maintained or a use or practice being conducted on the premises.

K. NAMEPLATE SIGN

A sign only indicating the name and/or address of an occupant.

L. NONCONFORMING SIGN

Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

M. OFF-PREMISES ADVERTISING SIGN

A sign intended for the painting, posting or otherwise displaying of information inviting attention to any product, business, service or cause not located on or related to the premises on which the sign is situated.

N. PERMANENT SIGN

A sign that is expected to be continuously displayed during the presence of a principal land use.

O. POLITICAL SIGN

A sign which indicates the name, cause or affiliation of a person seeking public or elected office or on which reference is made to an issue for which a public election or referendum is schedule to be held.

P. REAL ESTATE SIGN

A sign relating to the property upon which it is located, offering such property for sale or lease, announcing improvements or changes in connection therewith, warnings or other similar notices concerning such property.

Q. ROOF SIGN

A sign placed upon the roof of any building not to exceed the height of the building.

R. SANDWICH SIGN

A self-supporting sign not fixed in its location and easily movable.

S. TEMPORARY SIGN

A sign that is only permitted for specified periods of time, associated with some temporary event or work, conducted on the site.

T. UNDER-CANOPY SIGN

A sign that identifies one leasable unit within a shopping center and is hung from an overhead canopy of the shopping center, or is provided as a wall projecting sign attached to the front wall of the unit where no canopy is provided.

U. WALL PROJECTING SIGN

A sign placed perpendicularly to the surface of a building and can project no more than six feet. A wall projecting sign can also be attached to a marquee.

V. WINDOW SIGN

A sign painted on or attached to the inside or outside surface of a window.

SIGN SIZE or SIGN AREA

The area of the sign facing, including any border, framing or decorative attachments. In the case of freestanding letters, it shall be the area contained between the highest and lowest point of any letters and the extremity points of the first and last letters.

SITE DEVELOPMENT PLAN

A scaled graphical depiction of the proposed development of a lot, parcel or tract of land describing all covenants assigned, as well as accurately depicting the use, location and bulk of all buildings and structures, intensity of use or density of development, streets, driveways, rights-of-way, easements, parking facilities, open space, public facilities and utilities, setbacks, height of buildings and structures, and other such data necessary for municipal officials to determine compliance with this chapter and appropriate provisions of other such ordinances, as they may apply.

SLOPE

The face of an embankment or cut section, and ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL STABILIZATION

Chemical or structural treatment designed to increase or maintain the stability of a mass of soil or otherwise to improve its engineering properties.

SOLAR ACCESS

A property owner's right to have the sunlight shine on his land.

SOLAR SKYSPACE

The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effectiveness operation.

SOLAR SKYSPACE EASEMENT

A right, expressed as an easement, covenant, condition or other property interest in any deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed or designated solar energy collector at a described location by forbidding or limiting activity or land uses that interfere with access to solar energy.

SPECIAL EXCEPTION

The Zoning Hearing Board shall hear and decide requests for special exceptions in accordance with standards and criteria established by the Borough Council. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the zoning ordinance, as it may deem necessary to implement the purpose of Act 247 Editor's Note: See 53 P.S. § 10101 et seq. and the zoning ordinance.

STORAGE FACILITY

A structure intended for lease for the sole purpose of storing household goods, motor vehicles or recreational equipment.

STORY

That portion of any building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

STORY, HALF

A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not over three feet above the finished floor of such story.

STREET

A public right-of-way constructed to municipal standards which affords primary vehicular traffic or pedestrian access to abutting properties, includes avenue, boulevard, road, highway, freeway, parkway and viaduct but shall not include a lane or an alley for the purpose of this chapter.

STREET BANNER

A sign constructed of a strip of flexible material on which a sign is painted and is placed above the walkway or street.

STREET GRADE

The officially established grade of the street upon which a lot fronts, or if the lot abuts upon a street on a side or in the rear, the officially established grade of such street at the midpoint of the portion of the lot abutting thereon, or if there is no officially established grade, then "street grade" shall mean the existing grade of the street at the midpoint of the portion of the lot abutting thereon.

STREET LINE

The dividing line between the street and the lot, also known as the right-of-way line.

STREET, COLLECTOR

A street which gives minimal emphasis to travel mobility, which is characterized by low travel speeds, full land access, neighborhood penetration, and which serves minor traffic generators such as local elementary schools, small individual industrial plants, offices, commercial facilities, and warehouses not served by principal or minor arterials.

STREET, CUL-DE-SAC

A street intersecting another street at one end and terminating at the other in a vehicular turnaround.

STREET WIDTH

The distance between street lines measured at right angles to the center line of the street.

STREET, MAJOR

A. ARTERIAL STREET

A major street or highway with fast or heavy traffic of considerable continuity and used primarily as a traffic artery for intercommunications among large areas.

B. COLLECTOR STREET

A major street or highway which carries traffic from minor streets to arterial streets including the principle entrance streets of a residential development and streets for circulation within such a development.

STREET, MARGINAL ACCESS

A minor street which is parallel and adjacent to a limited access highway or arterial street, which provides access to abutting properties and protection from through traffic. Also known as a service road.

STREET, MINOR ARTERIAL

A street which gives greater emphasis to land access, and which has a lower level of through traffic mobility than a principal arterial, and which serves larger schools, industries, hospitals, and small commercial areas not incidentally served by a principal arterial.

STRUCTURE

Any combination of materials, other than a building, which forms a construction that is safe and stable, including but not limited to flagpoles, stadiums, platforms, towers, sheds, storage bins, fences exceeding four feet in height, signs, signposts, and lights and light standards for other than residential use, but excluding patios, driveways, walks and parking areas at yard grade.

STRUCTURE, NONCONFORMING

A structure the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

STRUCTURE, TEMPORARY

A structure without any foundation of footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

STUDIO

A building or portion of a building used as a place of work by an artist, photographer or artisan, or used for radio or television broadcasting.

STUDIO, DANCING OR MUSIC

The use of a premises by a teacher of music or dancing where students are taught these arts for a fee. This term is synonymous with “dancing school” and “music school,” and other similar expressions.

SUBDIVISION (see “LAND DEVELOPMENT”)

The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or buildings or lot development. Provided, however, that the subdivision by lease of land for agricultural

purposes into parcels of more than 10 acres, not involving any new street or easement of access or residential dwellings, shall be exempted.

SUBSTANTIAL IMPROVEMENT

Any repair, alteration, reconstruction or improvement of a structure, and/or use the cost of which equals or exceeds 50% of its market value either: before improvement is started; or if the structure has been damaged and is being restored before the damage occurred.

SURFACE DRAINAGE PLAN

A plan showing all present and proposed grades and facilities for stormwater management.

SWALE

A low-lying stretch of land characterized as a depression used to carry surface water runoff.

SWIMMING POOL

A portable or permanent structure designed to hold water for wading or swimming purposes over 24 inches in height or an area of 125 square feet or greater and located above or recessed at ground level shall for the purpose of this chapter be defined as a swimming pool. [Amended 1-8-2013 by Ord. No. 348]

TAVERN

An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as an accessory to the primary use.

THEATER, CINEMA and/or AUDITORIUM

A building or part of a building devoted to the showing of moving pictures or theatrical productions on a paid-admission basis.

TOWNHOUSE

See "dwelling, single-family attached."

TRAILER

A vehicle without power, designed to carry property of passengers or designed and used exclusively for living quarters wholly on its own structure, and to be drawn by a motor vehicle or tractor and including, but not limited to, house trailers, boat trailers and rental handling trailers.

TRANSFORMER SUBSTATION

An electric substation containing an assemblage of equipment for the purpose other than generation or utilization, through which electrical energy in bulk is passed for the purpose of switching and modifying its characteristics to meet the needs of the general public.

TRAVEL TRAILER

A vehicular portable structure built on a chassis and designed as a temporary dwelling for travel, recreational and vacation uses, having a body width not exceeding eight feet and a body length not exceeding 32 feet.

TRUCKING DISTRIBUTION AND WAREHOUSING

An area and building where trucks load and unload cargo and freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

UNDEVELOPED LAND

Any lot, tract or parcel of land which has not been graded or in any other manner prepared for the construction of a building.

USE

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, NONCONFORMING

A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

USE, PRINCIPAL

The primary or predominant use of any lot.

USE, TEMPORARY

A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

VARIANCE

The permission granted by the Zoning Hearing Board for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary physical hardship, where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the ordinance.

WADING POOL

A portable or permanent structure designed to hold water for wading purposes not to exceed 24 inches in height and area governed by its location and located above or recessed at ground level is for the purpose of this chapter a wading pool.

WALLS

- A. The vertical exterior surface of a building.
- B. Vertical surfaces that divide a building's space into rooms. Is not limited to building(s), fence(s) or retaining structure(s).

WAREHOUSING, REFRIGERATED AND GENERAL STORAGE

A building used primarily for the storage of goods and materials by the owner of the goods or operated for specific commercial establishment or groups of establishments in a particular industrial or economic field.

WATERCOURSE

A stream of water, river, brook, creek or a channel or ditch for water, whether natural or man-made.

WHOLESALE BUSINESSES

Sales that primarily engaged in transactions with other businesses and their agents and not to the general public.

WINDOW

An opening to the outside of a building or structure, other than a door, which provides all or part of the natural light and/or natural ventilation to an interior space. The glassed portion of a door in an exterior wall shall be considered a window.

WIRELESS COMMUNICATION FACILITIES

Communication and transmission antennas and communication towers and related facilities which provide cellular communication, radio, telephone, television and other similar types of communication.

A. ANTENNA

Any structure or device used to send or receive signals used in the cellular communication, radio, telephone, television and related industries.

B. COMMUNICATION COMPANY

Any natural or legal person or persons or entities involved or engaged in the cellular communication, radio, telephone, television and related industries, including any such persons or entities who either construct, operate or use communication structures in accordance with Newport Borough ordinances.

C. COMMUNICATION STRUCTURE HEIGHT

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

D. COMMUNICATION STRUCTURES

Any antenna, antenna assembly, tower or other structure or support structure, and equipment used to send and receive all types of signals or other communications in the cellular communication, radio, telephone, television and related industries.

E. CO-USAGE

The act of locating two or more antennas on one communication structure.

F. FREESTANDING TOWER

Includes monopoles, guide towers and other types of towers and structures used to elevate and support communication devices when not attached to a structure as such term is herein defined.

G. LEASED LOT

A lot or parcel of land that is leased to support the communication structure and supporting equipment. A leased lot is commonly associated with an area conducive to meet the required setback requirements for the district in which the communication structure is located, and is located within a lot or record. A leased lot shall not create a nonconforming condition associated with the lot of record.

H. LOT OF RECORD

A lot that exists as shown or described on a plat or deed in the Perry County Recorder's Office, and that is legally in existence at the time of a subdivision and/or land development plan is submitted for approval of a communication structure by the Borough, and will support a leased lot and/or a communication structure. Setback percentages as required herein shall be measured from the lot of record property line and not the leased lot property boundary.

I. STRUCTURE

For the purpose of this definition, a "structure" is defined as water towers, commercial and industrial buildings, other communication towers and other usable structures that can function in accordance with industry standards to which an antenna or similar devices can be mounted without having to construct a support structure. Structures do not include existing residential dwellings or accessory structures.

YARD, BUFFER

A strip of required yard space adjacent to the boundary of a property or district, not less than the width designated in this chapter, and on which is placed (planted) year-round shrubbery, hedges, evergreens or other suitable plantings of sufficient height and density to constitute an effective screen and give maximum protection and immediate screening to an abutting property or district, and may include a wall, as provided for in this chapter.[Added 1-8-2013 by Ord. No. 348]

Article III. Zoning Districts

§ 250-10. Types of zoning districts.

For the purpose of this chapter, Newport Borough is hereby divided into seven zoning districts:

- A. (C) Conservation.
- B. (P) Public/Semipublic.
- C. (R-1) Residential – Single Family.
- D. (R-2) Residential – Multifamily.
- E. (C-1) Neighborhood Commercial.
- F. (C-2) Downtown Commercial.
- G. (M) Manufacturing.

§ 250-11. Zoning Map. (Amended 11-17-15 by Ord. No. 364)

A. The Newport Borough Zoning Map is incorporated as part of this chapter and shall define the zoning districts described in § 250-10, except for the Floodplain Overlay District, which is delineated in the most current Flood Insurance Study and Flood Boundary and Floodway Map of Newport Borough, as prepared by the Federal Insurance Administration.

B. Any amendment to a boundary on the Borough Zoning Map shall be accordingly revised and shall be certified by the Borough Secretary.

C. To amend the Zoning Map to change the southernmost (C-2) area encompassing the area south of the intersection of Pine Street and Mulberry Street from (C-2) Downtown Commercial to (C-1) Neighborhood Commercial.

§ 250-12. Boundaries of zoning districts.

The boundaries of the districts shall be as shown on the Zoning Map, except for the Floodplain Overlay District, which is delineated by the most current Flood Insurance study and Floodplain Boundary and Floodplain Map of the Borough of Newport, as prepared by the Federal Insurance Administration. Generally, the boundary lines follow lot lines or center lines of streets, except in the C-2 District, which may subdivide blocks based on road frontage. Boundaries that approximately follow the center line of streams, rivers or other bodies of water, shall be construed as following such center lines. In unsubdivided property, boundaries shall be determined by use of the scale or dimensions indicated on the Zoning Map. Questions concerning the exact location of district boundary lines shall be determined by the Borough Zoning Officer.

§ 250-13. Application of district regulations.

A. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

B. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all the regulations herein specified for the district in which it is located. No residential lot shall have erected upon it more than one principal building.

C. No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height;
- (2) To accommodate or house a greater number of families except as a special exception; (3) To occupy a greater percentage of lot area; or
- (4) To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein or in any other manner contrary to the provisions of this chapter.

D. No yard or lot existing at the time of this chapter shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

E. Where an existing building line is established, on at least 50% of the properties in a block in which the proposed building or addition is located or within 200 feet immediately adjacent to the proposed building or addition, the required minimum setback may be increased or decreased or conform with such established building lines.

F. Newly annexed territory to the Borough shall automatically be construed to be located in the C Conservation District, subject to application for amendment and public hearing, unless otherwise indicated in the approved petition for annexation.

G. When a zoning district boundary line divides a lot held in single and separate ownership at the effective date of this chapter, the regulations of either abutting district may be construed by the owner to be applicable to the portion of such lot in the other abutting district for a distance of not more than 50 feet beyond the district boundary line.

Article IV. Conservation District (C)

§ 250-14. Purpose.

The purpose of the Conservation District is to provide adequate green space within the Borough. Two major types of green space are provided: natural and recreational. Natural areas of conservation space are those areas left to grow naturally with only minor changes such as hiking trails; recreational areas are predominantly clear-cut and used for recreational purposes such as ball fields and picnic and play areas. Within the Borough a large portion of the conservation area has been located to take advantage of the restricted use of land located within the one-hundred-year floodplain.

§ 250-15. Permitted uses.

- A. Parks and recreation.
- B. Natural land reserves.

§ 250-16. Conditional uses.

- A. Single-family detached dwellings.

§ 250-17. Lot design requirements.

The following regulations shall be observed for each lot:

- A. Maximum height: 10 feet.
- B. Minimum vegetative coverage: 90%.
- C. Minimum lot area: none required.
- D. Minimum lot width, street frontage: none required.
- E. Minimum front setback: 15 feet.
- F. Minimum side setback: eight feet.
- G. Minimum rear setback: 15 feet. * Front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered porches shall not be considered part of the building when determining such measurements.

Article V. Public/Semipublic District (P)

§ 250-18. Purpose.

[Amended 1-8-2013 by Ord. No. 348]

The Public/Semipublic District is intended to provide appropriate and flexible development standards for the development of necessary public uses and facilities. It also should ensure that public buildings and uses are designed to be compatible with other buildings and uses on the site and with the neighborhood in which they are located.

§ 250-19. Permitted uses.

- A. Schools (private or public), excluding commercial schools.
- B. Police stations.
- C. Emergency services, such as fire and ambulance.
- D. Libraries.
- E. Municipal buildings and facilities.
- F. Utility facilities.

§ 250-20. Conditional uses.

- A. Churches.
- B. Parking lots.
- C. Nonprofit organizations.

§ 250-21. Lot design requirements.

The following regulations shall be observed for each lot:

- A. Maximum height: 40 feet.
- B. Minimum vegetative coverage: 20%.
- C. Minimum lot area: 20,000 square feet.
- D. Minimum lot width, street frontage: 30 feet.
- E. Minimum front setback: 15 feet.
- F. Minimum side setback: eight feet.
- G. Minimum rear setback: 15 feet. * Front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered porches shall not be considered part of the building when determining such measurements.

§ 250-22. Additional requirements.

- A. Off-street parking in accordance with Article XIV.
- B. Signs in accordance Article XIII.
- C. Fencing in accordance with Article XI, § 250-82.
- D. Accessory use controls in accordance with Article XI, § 250-51.

Article VI. Residential District (R-1)

§ 250-23. Purpose.

The Residential Single-Family District is comprised of those areas where single-family dwellings are predominant and includes certain undeveloped areas where similar development would be a logical extension. The purpose of this district is to stabilize and protect certain areas of the Borough where a pattern of single-family development has been established and to promote a suitable environment for family life. To these ends, development is restricted to single-family detached dwellings and related compatible land uses.

§ 250-24. Permitted uses.

- A. Single-family detached dwellings.
- B. Places of worship.
- C. Public libraries.
- D. Schools (public and private), excluding vocational or commercial schools.
- E. Utility facilities (see § 250-63).
- F. Municipal buildings and facilities.
- G. Parks and recreation.
- H. Home occupations (see § 250-56).
- I. Uses and buildings customarily accessory and incidental to any permitted use.

§ 250-25. Conditional uses.

- A. Assisted-care residence.

§ 250-26. Lot design requirements.

The following regulations shall be observed for each lot:

- A. Maximum height: 35 feet.
- B. Minimum vegetative coverage: 30%.
- C. Minimum lot area: 7,500 square feet.
- D. Minimum lot width, street frontage: 70 feet.
- E. Minimum front setback: 25 feet.
- F. Minimum side setback: eight feet.
- G. Minimum rear setback: 15 feet. * Front yard setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered porches shall not be considered part of the building when determining such measurements.

§ 250-27. Additional requirements.

- A. Signs in accordance with Article XIII.
- B. Off-street parking/access in accordance with Article XIV.
- C. Fencing in accordance with Article XI, § 250-82.
- D. Home occupations in accordance with Article XI, § 250-56.
- E. Home daycare in accordance with Article XI, § 250-51G(4) and (5).
- F. Accessory use controls in accordance with Article XI, § 250-51.

Article VII. Residential District (R-2)

§ 250-28. Purpose.

The R-2 District is composed of those areas in the Borough where a variety of higher-density residential dwellings has been established, plus certain areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of the districts and promote and encourage a suitable environment for family life. To these ends, development is limited to medium density concentration, permitting primarily single- and two-family dwellings.

§ 250-29. Permitted uses.

- A. All uses permitted in R-1.
- B. Single-family attached dwellings (see § 250-60).
- C. Single-family semidetached dwellings.
- D. Two family detached dwellings.
- E. Conversion apartments (see § 250-58).
- F. Apartments (see § 250-59).
- G. Home daycare [see § 250-51(7)(D)]. Editor's Note: Original Subsections 8, Group home day care, which followed this subsection, was repealed 1-8-2013 by Ord. No. 348. H. Commercial day-care centers (see § 250-67).
- I. Coin operated laundries.
- J. Boarding houses.
- K. Bed-and-breakfasts establishments. Editor's Note: Original Subsections 13 through 16, Utility facilities, home occupations, municipal buildings and facilities and accessory uses and buildings, respectively, which followed this subsection, were repealed 1-8-2013 by Ord. No. 348.

§ 250-30. Conditional uses.

- A. Mobile home parks.
- B. Funeral homes.

§ 250-31. Lot design requirements.

The following regulations shall be observed for each lot:

Use	Height (feet)	Minimum Lot Width (feet)	Minimum Vegetative Coverage	Minimum Lot Area (square feet)	Setbacks ¹ (feet) F, S, R
Single-family detached	35	50	20%	5,000	28, 8, 15
Single-family attached (townhouse or row home)	35	25	20%	2,000	30, 8, 15
Single-family semidetached (duplex)	36	60	20%	3,000	30, 8, 15
Two-family detached	35	50	20%	2,000	30, 8, 15
Apartments	40	100	20%	10,000	30, 8, 15
Nonresidential	40	35	20%	3,000	25, 8, 15

NOTES: * Front setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open, uncovered porches shall not be considered part of the building when determining such measurements. ¹ The minimum side setback requirement includes both yards.

§ 250-32. Additional requirements.

- A. Signs in accordance with Article XIII.
- B. Off-street parking/access in accordance with Article XIV.
- C. Fencing in accordance with Article XI, § 250-82.
- D. Home occupations in accordance with Article XI, § 250-56.
- E. Commercial day care in accordance with Article XI, § 250-67.
- F. Accessory use controls in accordance with Article XI, § 250-51.
- G. Conditional use regulations in accordance with Article XI, § 250-73.

Article VIII. Neighborhood Commercial District (C-1)

§ 250-33. Purpose.

The C-1 District is comprised of those areas in the Borough containing a variety of residential dwelling arrangements with low-intensity commercial uses. The district is intended to promote a compatible combination of residential uses and retail/professional trade to establish a viable urban environment which will supplement activities and uses permitted in the more intensive C-2 Downtown Commercial District.

§ 250-34. Permitted uses.

- A. All uses permitted in R-2. Editor's Note: Original Subsection 2, Municipal buildings and facilities, and Subsection 3, Utility facilities, which followed this subsection, were repealed 1-8-2013 by Ord. No. 348.

B. Medical/dental centers/offices.

C. Business and professional offices. Editor's Note: Original Subsection 6, Home occupations, which followed this subsection, was repealed 1-8-2013 by Ord. No. 348.

D. Personal services.

E. Professional services.

F. Beautician salon or barber shop.

G. Parking lots and garages.

H. Health and fitness centers. Editor's Note: Original Subsection 12, Commercial day-care centers, which followed this subsection, was repealed 1-8-2013 by Ord. No. 348. I. Restaurant.

J. Clothes tailor. Editor's Note: Original Subsection 15, Coin-operated laundry facilities, and Subsection 16, Place of worship, which followed this subsection, were repealed 1-8-2013 by Ord. No. 348.

K. Accessory uses customarily incidental to the above permitted uses.

§ 250-35. Conditional uses.

A. Funeral home.

B. Group home.

C. Assisted-care residence.

§ 250-36. Lot design requirements.

(Amended 11/20/15 by Ord. No. 364) To Change the side setback requirements from (8) feet side yards to (8) feet total and not less than (2) feet on one side.

Use	Height (feet)	Minimum Lot Width (feet)	Min. Lot Area (Sq. Feet)	Minimum Lot Area (square feet)	Setbacks (feet)** F, S, R
Single-family detached	40	50	20%	3,000	10, 8, 15
Single-family attached (townhouse or row home)	40	24	20%	2,000	10, 8, 15
Single-family semidetached (duplex)	40	60	20%	2,000	10, 8, 15
Two- family detached	40	50	20%	2,000	10, 8, 15
Apartments	40	100	20%	10,000	10, 8, 15
Nonresidential	40	35	20%	3,000	10, 8, 15

NOTES: * Front setback may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building within the same block. Open,

uncovered porches shall not be considered part of the building when determining such measurements.

§ 250-37. Additional requirements.

- A. Signs in accordance with Article XIII.
- B. Off-street parking/access in accordance with Article XIV.
- C. Fencing in accordance with Article XI, § 250-82.
- D. Home occupations in accordance with Article XI, § 250-56.
- E. Commercial day care in accordance with Article XI, § 250-67.
- F. Accessory use controls in accordance with Article XI, § 250-51.
- G. Conditional use criteria in accordance with Article XI, § 250-73.
- H. Yard regulations in accordance with Article XI, § 250-78.
- I. Screening requirements in accordance with Article XI, § 250-79B.
- J. Commercial uses in accordance with Article XI, § 250-69.
- K. Illumination requirements in accordance with Article XI, § 250-84.

Article IX. Downtown Commercial District (C-2)

§ 250-38. Purpose.

The C-2 District is comprised of those areas in the Borough where a greater intensity of commercial use has been established. This district is intended to serve the commercial retail market of the entire Borough and its surrounding trade area. It is intended to promote the establishment of a wide variety of shopping and service activities to meet the needs of the citizens.

§ 250-39. Permitted uses.

- A. Dwelling units, on or above the second floor.
- B. Retail services.
- C. Personal services.
- D. Professional services.
- E. Funeral homes, mortuaries (see § 250-57).
- F. Restaurants and taverns, excluding fast-food restaurants.
- G. Telephone communications.
- H. Studios or galleries for teaching dancing, art, music or other similar cultural pursuits.
- I. Places of worship (§ 250-54).
- J. Municipal buildings and facilities.
- K. Emergency services.
- L. Utility facilities (see § 250-63).
- M. Theaters, cinema or auditoriums (see Article XIV, Off-Street Parking and Loading).
- N. Parking lot or garage.
- O. Commercial day care (see § 250-67).
- P. Assisted-living center.
- Q. Home day care [see § 250-51G(4) and (5)].
- R. Hotels and or motels (see § 250-62, see Article XIV, Off-Street Parking and Loading).
- S. Bed-and-breakfasts.

- T. Home occupations (see § 250-56).
- U. Accessory uses customarily incidental to the above permitted uses.

§ 250-40. Conditional uses.

- A. Restaurant, drive-through.
- B. Bank, drive-through.
- C. Beverage store with drive-through.

§ 250-41. Lot design requirements.

- A. Minimum lot area: none required.
- B. Minimum vegetative coverage: 30%.
- C. Minimum lot width: 40 feet.
- D. Maximum height: 40 feet.
- E. Minimum lot depth: 100 feet.
- F. Minimum front setback: 10 feet.
- G. Minimum side setback: 15 feet total.
- H. Minimum rear setback: 15 feet.

§ 250-42. Maximum floor area ratio for uses other than residential.

- A. Three-tenths/net developable acre.

§ 250-43. Additional requirements.

- A. Signs in accordance with Article XIII.
- B. Fencing in accordance with Article XI, § 250-82.
- C. Home occupations in accordance with Article XI, § 250-56.
- D. Commercial day care in accordance with Article XI, § 250-67.
- E. Accessory use controls in accordance with Article XI, § 250-51.
- F. Conditional use criteria in accordance with Article XI, § 250-73.
- G. Yards requirements in accordance with Article XI, § 250-78.
- H. Screening requirements in accordance with Article XI, § 250-79B.
- I. Commercial use requirements in accordance with Article XI, § 250-69.
- J. Illumination requirements in accordance with Article XI, § 250-84.
- K. Automobile service stations and other drive-in or through type uses in accordance with Article XI, § 250-64.

Article X. Manufacturing District (M)

§ 250-44. Purpose.

The M Manufacturing District is comprised of those areas in the Borough where a greater intensity of commercial use has been established, plus contiguous areas for expansion. This district is intended to accommodate wholesale, warehouse and manufacturing operations whose physical expansion is restricted to the area of the district, and to establish such standards as necessary to protect surrounding land uses from detrimental impacts.

§ 250-45. Permitted uses.

- A. All uses in the R-1, R-2, C-1 and C-2 Districts.
- B. Distribution plants, parcel delivery and service industries.
- C. Wholesale businesses, warehousing, refrigerated and general storage.
- D. Automotive repairs, sales, and services.
- E. Manufacturing.
- F. Trucking, distribution, and warehousing.
- G. Farm machinery sales/repair.
- H. Wireless communication facilities (see § 250-91).
- I. Contractors' establishments. Editor's Note: Original Subsection 10, Parking lot/garage, which followed this subsection, was repealed 1-8-2013 by Ord. No. 348.
- J. Kennels (see § 250-93).
- K. Laboratory services: photo, engineering, medical.
- L. Convenience store with filling stations. Editor's Note: Original Subsection 14, Home occupations, Subsection 15, Commercial day care, Subsection 16, Home day care, Subsection 17, Group home day care, Subsection 18, Utilities facilities, Subsection 19, Municipal buildings and facilities, Subsection 20, Accessory uses customarily incidental to the above permitted uses, which followed this subsection, were repealed 1-8-2013 by Ord. No. 348.

§ 250-46. Conditional uses.

- A. Adult entertainment establishments (see § 250-92).

§ 250-47. Lot design requirements.

- A. Minimum lot area: none required.
- B. Minimum vegetative coverage: 20%.
- C. Minimum lot width: 30 feet.
- D. Maximum height: 40 feet.
- E. Minimum front setback: 20 feet.
- F. Minimum side setback: 10 feet.
- G. Minimum rear setback: 15 feet.

§ 250-48. Maximum floor area ratio for uses other than residential.

- A. Three-tenths/net developable acre.

§ 250-49. Waste storage and disposal.

All waste storage and disposal must meet all state and federal regulations. In addition, storage must be housed within a screened/fenced area not available to the general public.

§ 250-50. Additional requirements.

- A. Signs in accordance with Article XIII.
- B. Off-street parking/access in accordance with Article XIV.
- C. Fencing in accordance with Article XI, § 250-82.
- D. Home occupations in accordance with Article XI, § 250-56.
- E. Accessory use controls in accordance with Article XI, § 250-51.
- F. Conditional use criteria in accordance with Article XI, § 250-73.
- G. Buffer yards and screening in accordance with Article XI, § 250-79.
- H. Yard requirements in accordance with Article XI, § 250-78.

- I. Performance standards in accordance with Article XI, § 250-85.
- J. Outdoor storage in accordance with Article XI, § 250-94.
- K. Commercial and industrial requirements in accordance with Article XI, § 250-69.
- L. Illumination requirements in accordance with Article XI, § 250-84.
- M. Height regulations in accordance with Article XI, § 250-76.

Article XI. General Provisions

§ 250-51. Accessory use controls.

- A. The lot requirements of the prevailing zoning district shall apply except where the regulations of this article are more strict.
- B. No activities shall be permitted which create a public nuisance and/or interfere with the use of the adjacent lots.
- C. No accessory structure or use shall be located within the required setback.
- D. No accessory building or use shall be located within the front yard.
- E. No temporary structures or uses shall be permitted.
- F. Accessory uses, commercial and industrial. Accessory uses and structures shall be designed to conform with the main building and shall comply with the requirements of the applicable zoning district.
- G. Accessory uses, residential.
 - (1) Animal shelters.
 - (a) Shall not be attached to a residential building.
 - (b) Shall not exceed six feet in height.
 - (2) Garages. Shall not exceed 20 feet in height.
 - (3) Greenhouse. Shall not exceed 10 feet in height.
 - (4) Home day care.
 - (a) Shall be permitted in all districts.
 - (b) Shall meet state licensing regulations for building, firesafety and health.
 - (c) Shall not have more than one employee to assist the operation.
 - (d) One additional off-street parking space shall be provided for each employee. A residential home driveway is acceptable to use for this calculation.
 - (e) If the home is located on an arterial street, an off-street dropoff/pickup area shall be provided.

- (f) Advertising signs are not permitted.
- (g) The appearance of the dwelling shall not be changed.
- (h) There shall be no more than six children permitted on the premises in a home day-care operation.

(5) Home day-care, group.

- (a) Shall be permitted only in the C-1 and C-2 Districts.
- (b) Group operations shall have seven but not more than 12 children at any time.
- (c) One additional off-street parking space shall be provided for each employee. A residential home driveway is acceptable to use for this calculation.
- (d) Can only be located in single-family detached or single-family semidetached dwellings. (e) Shall have a minimum of one employee to assist the operation.
- (f) Shall meet state licensing regulations for building, firesafety and health.
- (g) Shall provide an outdoor fenced-in recreational space on the premises.

(6) Other outbuildings.

- (a) Shall not exceed 10 feet in height.
- (b) No structure shall be attached to a building.

(7) Walkways. May be between the setback and property line.

(8) Tennis courts. Shall not be permitted unless it is surrounded by a permanent fence 10 feet in height behind each base line extending 10 feet beyond the playing area in each direction. (9) Satellite dishes over two feet in circumference. (a) Shall not be located in front yard. (b) Shall be completely screened from view. (See § 250-79B.)

§ 250-52. Clubs, lodges and fraternal organizations.

Where permitted, these and similar uses are restricted to those not conducted primarily for gain, although a dining room may be operated for the benefit of club members; provided that no permanent sign advertising the sale of food or beverages will be permitted. Buildings or structures hereafter converted or erected for such use are subject to all applicable regulations for the district in which the facility is to be located. A planted buffer no less than five feet in depth shall be maintained along all property lines abutting a residential use.

§ 250-53. Medical or dental clinic buildings.

Where permitted, a building for such use may be erected or used subject to the following:

A. The building shall be occupied and used only by persons licensed to practice the healing arts in the Commonwealth of Pennsylvania and their staffs.

B. The lot area shall be determined on the basis of building size, yard requirements, parking and access requirements and other applicable standards but in no case shall be less than 7,500 square feet.

C. The minimum front, side and rear yard setbacks shall be no less than 25 feet.

D. Lot width shall be determined by the size of the building and setbacks.

E. A planted buffer no less than five feet in depth shall be maintained along all property lines abutting a residential use.

§ 250-54. Churches, hospitals and schools.

Where permitted, buildings for such uses may be erected and used subject to the following:

A. The lot area shall be based on building size, yard requirements, parking and access requirements and other applicable standards but in no case shall be less than 20,000 square feet.

B. The minimum front, side, and rear yard setbacks shall be no less than 30 feet.

C. Lot width shall be determined by the size of the building and setbacks but in no case shall be less than 100 feet.

D. A planted buffer no less than 10 feet in depth shall be maintained along all property lines.

E. Such properties shall have direct and abutting access to a collector street.

§ 250-55. Nursing homes.

Where permitted, a building for such use may be erected and used subject to the following:

A. They shall be constructed and operated in accordance with applicable state laws.

B. The minimum lot area shall be determined by building size, setbacks, and be at least 7,500 square feet in area plus 500 square feet for each patient over eight.

C. Minimum lot width shall be based on building size and setbacks.

D. The minimum front, side and rear yard setbacks shall be no less than 25 feet.

E. A planted buffer no less than 10 feet in depth shall be maintained along all property lines.

§ 250-56. Home occupations.

Where permitted, home occupations may be established subject to the following conditions:

A. The home occupation shall be carried on completely within the dwelling unit or accessory building.

B. Not more than the equivalent of two full time persons other than the occupants of the dwelling unit shall be employed.

C. Not more than 1/2 the floor area of a main building shall be devoted to a home occupation.

D. Articles sold or offered for sale shall be limited to those produced on the premises.

E. There shall be no exterior display or sign (except as permitted in Article XIII of this chapter), no exterior storage of materials and no other exterior indicating of the home occupation or variation of the residential character of the main building or neighborhood.

F. No offensive noise, vibration, smoke, or other particulate matter, heat, humidity, glare or other objectionable effects shall be produced.

G. A home occupation may include, but is not limited to, art studios, dressmaking or millinery, barbershop, beauty parlor, teaching, with music or dance instruction limited to four or less pupils at a time, computer services, real estate or insurance office, the professional office of a dentist, physician, lawyer, engineer, accountant, architect or any other activities of a similar nature.

§ 250-57. Funeral homes.

Where permitted, funeral homes may be established subject to the following conditions:

A. The lot area shall be determined on the basis of building size, yard requirements, parking and access requirements and other applicable standards but in no case shall be less than 7,500 square feet.

B. Minimum front, side, and rear yard setbacks shall be 15 feet.

C. Lot width shall be determined by the size of the building and setbacks.

D. A planted buffer no less than five feet in depth shall be maintained along all property lines abutting a residential use.

§ 250-58. Conversion apartment.

A building or dwelling may be converted to contain more than one dwelling in a district so specifying, provided:

A. The lot area per dwelling unit shall conform to the regulations for the district in which it is located.

B. In the R-2 Residential District, the volume of the building shall not be increased except as may be necessary for purposes of safety.

C. Each dwelling unit contains not less than one bathroom and two habitable rooms.

D. Any structural alterations shall be located on the side or rear of the building not facing a public street or shall be in harmony with adjacent buildings.

E. The dimensional, parking and other applicable requirements of the district in which such conversion is proposed shall not be reduced.

§ 250-59. Apartments.

Where permitted, apartments shall comply with the following:

- A. There shall be not more than 12 dwelling units per building.
- B. No apartment building shall be in excess of two stories in height.
- C. Lot area per dwelling unit shall not be less than the area required by the district regulations.

§ 250-60. Townhouses (single-family attached dwellings).

In districts where permitted, all townhouses shall comply with the following:

- A. There shall be not more than 10 units in a row.
- B. Lot area per dwelling unit shall not be less than the area required by the district regulations in which it is located.

§ 250-61. Mobile homes.

Mobile homes are permitted for residential use, provided they comply with the following:

- A. Only one mobile home is permitted on a lot and each such mobile home shall meet all applicable regulations for a single-family detached dwelling.
- B. The wheels and axles shall be removed and the home shall be installed on and securely fastened to a frost-free foundation or footer; in no event shall it be erected on jacks, loose blocks or other temporary materials.
- C. An enclosure of compatible design and material shall be erected around the entire base of the mobile home. Such enclosure shall provide sufficient ventilation to inhibit decay and deterioration of the structure.

§ 250-62. Motels.

Where permitted, motels shall be subject to the following safeguards and regulations:

- A. Where two or more buildings are proposed, as a land development, a plat shall be prepared and submitted to the Borough of accordance with the requirements of Chapter 222, Subdivision and Land Development, for action by the Borough Council.
- B. No motel shall have a lot area of less than 20,000 square feet, and where one building is proposed, plans shall be submitted to and approved by the Zoning Officer.
- C. Front, side and rear yards of the motel shall be permanently landscaped and maintained in good condition.
- D. Off-street parking and loading spaces for other facilities developed as part of the motel premises shall be provided as required by Article XIV of this chapter.
- E. Every unit shall be provided with running hot and cold water and separate toilet facilities.

F. Motel buildings or parts thereof shall be placed no closer to any lot line than 30 feet.

G. The space between motel buildings shall be not less than 20 feet, and the space between the fronts or rears of units shall be not less than 50 feet.

H. When the application for a permit is for a single motel building, a land development plan is required.

§ 250-63. Utility facilities.

Public and private utility facilities shall be permitted in any district; provided, however, that buildings or structures erected for these utilities shall be subject to the following regulations:

A. Front, side and rear yards shall be provided in accordance with the regulations of the district in which the facility is located.

B. Height shall be as required by the district regulations.

C. Unhoused equipment shall be enclosed with a chain-link fence six feet in height.

D. Housed equipment. When the equipment is totally enclosed within a building, no fence or screen planting shall be required; however, the yard areas shall be in conformity with the district in which the facility is located.

E. Screen planting in residential and commercial districts. The required fence for unhoused equipment shall be surrounded by an evergreen planting as approved by the Planning Commission.

F. The external design of the building shall be in conformity with the buildings in the districts.

§ 250-64. Automobile service stations and other drive-in type uses.

Such uses, where permitted, shall comply with the following:

A. No street entrance or exit for vehicles and no portion or equipment of such service station or other drive-in uses shall be located:

(1) Within 200 feet of a street entrance or exit of any school, park or playground conducted for and attended by children.

(2) Within 100 feet of any hospital, church or public library.

(3) Within 75 feet of a lot in a residential district as established in this chapter.

B. No equipment above surface of ground for the service of motor vehicles shall be closer than 25 feet to any property line.

C. The width of any entrance driveway leading from the public street to such service station or other drive-in use shall not exceed 30 feet at its intersection with the curblin e or edge of pavement.

D. No two driveways leading from a public street to such service station or other drive-in shall be within 15 feet of each other at their intersection with the curb or street line.

E. Parking and vehicle access shall be so arranged that there will be no need for the motorists to back over sidewalks or into streets.

§ 250-65. Mixed-use development.

A. When two or more principal uses occupy the same lot but not the same building, all parking, lot area, lot width, yard setback, height and building area requirements shall be provided so that the requirements pertaining to each use will be met in full.

B. No building to the rear of and on the same lot with a main building shall be erected or used for residence purposes unless such rear building conforms with all use, height, access and area requirements of the district in which it is located.

C. When two or more principal uses occupy the same building on the same lot, all parking, lot area and building area requirements shall be provided so that the requirements pertaining to each use will be met in full.

§ 250-66. Municipal uses.

In any district, a building may be erected, altered or extended and land may be developed which is arranged, intended or designed for municipal uses, including municipal recreation use.

§ 250-67. Commercial day-care center.

A land development plan is required for the design and construction of a commercial day-care center.

A. Commercial day-care centers are permitted in the R-2, C-2 and M Districts subject to the following:[Amended 1-8-2013 by Ord. No. 348] (1) A minimum of 50 square feet of active outdoor recreation is required per child enrolled. The outdoor recreation area should not be located along an arterial street and shall be fenced (see Article XI, § 250-82). The parking lot or area is not permitted to be a part of the outdoor recreation area(s).

(2) Pickup/dropoff areas shall be at least 30 feet from the off-street access area. Traffic shall not stack up to the access area.

(3) Off-street parking is required for commercial day-care centers (see Article XIV) and shall have limited access to the facility's ingress/egress access.

(4) Screening of the outdoor recreation area in accordance with Article XI, § 250-79B.

(5) Certification by the facility director or operator of compliance with federal and state licensing regulations.

(6) A safe pedestrian walkway system is required from the facility's main entrance to the parking lot.

(7) Commercial day-care centers shall not be located within 300 feet from a gasoline pump or underground gas storage tanks or other explosive materials.

B. In addition to a land development plan, the following information shall be provided:

- (1) The number of employees and children the facility will accommodate.
- (2) Outdoor recreation facilities with fencing.
- (3) Pickup and dropoff areas.
- (4) Landscaping and screening plan in accordance with Article XI, § 250-79.
- (5) Pedestrian walkway system.
- (6) Certification that the commercial day care will not be located within 300 feet of a fuel pump, underground gas storage tank or other explosive materials.

§ 250-68. Private swimming pool.

Private swimming pools may be erected as an accessory use in any district, provided it complies with the following:

- A. The pool is used solely for the enjoyment of the occupants of the principal use of the property on which it is located, including guests.
- B. It may not be located, including any walks, or paved areas or accessory structures adjacent thereto closer than 10 feet to any property line, nor shall it be nearer to any street line upon which the residence abuts than the existing setback line of the residence abuts than the existing setback line of the residence; however, in no case shall it be any closer than 20 feet from any street line.
- C. All permanent swimming pools now existing or hereafter constructed, installed, established or maintained, shall be enclosed by a permanent fence of durable material at least four feet in height, but not more than six feet in height and shall be so constructed as not to have openings, mesh or gaps, larger than four square inches in any direction, and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four inches. All gates used in conjunction with the fence shall meet the same specifications as to the fence itself and shall be equipped with approved locking devices and shall be locked at all times when the swimming pool is not in use.
- D. A dwelling or accessory building may be considered as part of the fence required under this section; however, the height requirements for a fence shall not apply to the building.
- E. The provisions regulating fencing shall not apply to pools having sides extending four feet above grade, providing that the stairs, or other means of access to the pool, are removed or locked in such a position as to make it readily inaccessible when not in use.
- F. No private pool shall be used in such a manner as to create a nuisance to other property owners in the vicinity.
- G. All materials used in the construction of private pools shall be waterproof and so designed and constructed as to facilitate emptying and cleaning and shall be maintained and operated in such a manner as to be clean and sanitary at all times.
- H. Private pools shall not be connected to the municipal sanitary sewer system and all waters from the pool shall be discharged in such manner that another person's property is not

damaged or affected by the discharge of the said water. Water may be discharged from a swimming pool into a street, if proper drainage facilities are available and with the permission of the Borough Council.

I. Enclosed indoor pools must comply with applicable regulations pertaining to accessory structures.

J. All existing permanent swimming pools shall be fenced within 180 days after passage of this chapter.

§ 250-69. Commercial and industrial uses.

A land development plan is required for the alteration or construction of a proposed commercial or industrial operation. The plan must conform to the requirements of this chapter, and the following data shall be submitted with the land development plan:

A. Architectural building plan.

B. Description of operation.

C. Plans for water supply and sewage disposal and their usage.

D. Plans for prevention or control of noise, vibration, glare, fire hazards, air pollution, water pollution and traffic.

E. Proposed fuel. F. Number of shifts and maximum employment per shift.

G. Additional pertinent data as may be required by the Zoning Officer.

§ 250-70. Solar collectors.

Solar collectors and solar-related equipment shall be permitted in any district as an appurtenance to a building or as a detached accessory structure.

§ 250-71. Private yard and garage sales.

Such activities may be permitted based on the following conditions:

A. Such sales are limited to two per year per dwelling unit.

B. All activities are conducted in such a manner that no hazards or nuisances are created.

C. The duration of such a sale shall not exceed two consecutive days and shall not commence prior to 7:00 a.m. nor continue after sunset.

§ 250-72. Windmills, wind wheels and wind energy conversion systems.

Windmills, wind wheels and wind energy conversion systems (WECS) shall be permitted in all districts subject to the following conditions:

A. The structure supporting the wind rotor unit, including any necessary guideposts and supporting cables, shall be independent of any occupied structure and located a minimum

distance of the tower height plus 10 feet from any occupied dwelling and shall not be more than 75 feet in height.

B. The minimum distance between the tower and any property line shall be not less than twice the height of the tower.

C. The minimum distance between grade and the lowest point of the rotor blade shall be 20 feet.

D. All electric lines/utility wires shall be buried underground.

E. Any mechanical equipment associated and necessary for operation, including a building for batteries and storage cells, shall be enclosed with a six-foot fence. The supporting structure shall also be enclosed with a six-foot fence, unless the base of the tower is not climbable for a distance of 12 feet.

F. When a building is necessary for storage cells or related mechanical equipment, the building shall not exceed 140 square feet in area nor eight feet in height and must be located at the base of the supporting structure.

G. The resultant energy harnessed from the wind shall not be used on property other than that on which located, unless all applicable cogeneration requirements are met.

H. The supporting structure and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the supporting structure and related structure shall be dismantled and removed from the property within 60 days.

I. The applicant shall demonstrate that any noise from the wind-generating unit shall not exceed 45 dB(A), measured at the property line.

(1) A "decibel" shall mean a unit for measuring the relative intensity of sounds. More specifically, a unit for expressing the ratio of two amounts of acoustic signal power equal to 10 times the common logarithm of this ratio.

(2) "A" weighted sound level shall mean the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of 20 micropascals using the "A" weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).

§ 250-73. Conditional use criteria.

In addition to the standards and criteria contained in this chapter, the Planning Commission and Borough Council shall consider the following when reviewing conditional use applications:

A. Compatibility with adjoining land uses and consistency with the Borough Comprehensive Plan.

B. The use is in accord with the general health, welfare, and development of the Borough.

C. The spirit and intent of the chapter are not violated.

D. That no hazardous conditions will result.

§ 250-74. Prohibited uses.

The following uses are prohibited in all districts throughout the Borough:

- A. The incineration, reduction or storage of garbage, offal, animals, fish or refuse, unless by the authority of or under the supervision of the Borough.
- B. Dumps and dumping of any kind unless by the authority of or under the supervision of the Borough.
- C. Junkyards.
- D. Race tracks for stock cars, midget cars and other motorized vehicle racing.
- E. Raising of livestock.
- F. Massage parlor. The operation of any massage parlor in which any of the following activities are carried on:
 - (1) The massage of, or physical contact with, the sexual or genital parts of one person by any other person. Sexual or genital parts shall include the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.
 - (2) The failure to conceal with a fully opaque covering, the sexual or genital parts of the body of any person.

§ 250-75. Uses not provided for.

Whenever in any district established under this chapter, a use is neither specifically permitted or denied and an application is made by a property owner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board which shall have the authority to permit the use or deny the use.

§ 250-76. Height regulations.

- A. The height of a building may exceed the maximum permitted height by one foot for each additional foot by which the width of each yard exceeds the minimum yard regulation for the district in which the building is located; provided, the total height does not exceed the maximum permitted height by more than 15%.
- B. For all residential uses, accessory buildings shall not exceed 15 feet in height and are subject to Subsection A.

§ 250-77. Area regulations.

- A. On a lot held in single and separate ownership which does not fulfill the regulations for the minimum area and yard dimensions for the district in which it is located, a building may be erected, altered and used thereon, providing the yard space is not less than the minimum specified herein.

B. The area, width and depth of lots shall provide adequate open space for off-street loading, unloading and/or parking space.

§ 250-78. Yard regulations.

A. Front yards.

(1) When a vacant lot is situated between two lots, each occupied by a principal building which extends into the front yard, the front yard of such vacant lot may be the average depth of the front yards of such two adjacent occupied lots.

(2) Accessory buildings shall not be located in the front yard.

B. Side yards.

(1) On a corner lot, the side yard abutting the street shall have a width at least equal to the depth of the front yard required in the district and shall be subject to all front yard requirements of this chapter.

(2) On a lot, in a district where residential structures are permitted, held in single and separate ownership at the effective date of this chapter, with a lot width less than required for the zone district, only one single-family dwelling may be erected, and side yards shall be provided according to the following requirements:

(a) On interior lots with a width of 50 feet or more, two side yards shall be provided as required by the district regulations.

(b) On corner lots with a width of 50 feet or more, two side yards shall be provided. The exterior side yard may be reduced by the number of feet by which the lot width is less than the district requires but may not be reduced to less than the required interior side yard. The interior side yard shall be provided as required by the district regulations.

(c) On lots less than 50 feet, but not less than 27 feet in width, two side yards shall be provided, each equaling 20% of the lot width.

(d) On lots less than 27 feet, but not less than 20 feet in width, the building shall be 16 feet in width and only one side yard shall be provided, equaling in width the difference between the lot width and 16 feet. One side wall of the building shall be constructed abutting the lot line without openings, but shall not be constructed as a party wall.

(e) On a lot, in a commercial or industrial district, held in single and separate ownership at the effective date of this chapter, with a lot width less than required for the zone district, the required side yards shall be determined by the Zoning Hearing Board upon application for a variance based on the same criteria as listed under Subsection B(2)(b) above for residential structures.

(f) Any accessory building may be erected within one of the side yards or within the rear yard, provided:

[1] Such accessory building shall be not less than 10 feet farther back than the rearmost portion of the main building.

[2] Where such side or rear yard is along an alley, the accessory building shall be located not less than five feet from the alley.

[3] Where such side or rear yard is adjacent to another lot, the accessory building shall be not less than three feet from any lot line.

[4] When an accessory building is erected within the side or rear yard adjacent to a side street on a corner lot, the accessory building shall be not less than the required front yard depth from the exterior side lot line.

[5] On a corner lot in any residential district, an accessory building shall not be erected within the required building setback line of the exterior side lot line (street line); provided, however, that when the main buildings exist on both the corner lot and the lot abutting the rear of the corner lot, an accessory building may be erected at the average distance from the street line, established by the existing main buildings. (g) A carport, open on three sides, may be erected within one of the side yards when attached to a main building existing at the effective date of this chapter, provided the carport shall be not less than five feet from the side lot line.

§ 250-79. Buffer yards and screening requirements.

A. Buffer yards.

(1) Unless otherwise provided for in this chapter, where a commercial or manufacturing use adjoins a residential district or use, a buffer yard of not less than 15 feet in depth shall be provided along the lot lines, in addition to the yards required for the district in which it is located.

(2) All buffer yard areas shall be planted and maintained with a plant material. A screen planting shall be planted and maintained to the full length of side and rear lot lines which do not abut streets.

(3) All buffer yards shall be provided in accordance with the following:

(a) All buffer yards shall be planted with grass or ground cover, and where required, screen planting (see Subsection B). Buffer yards shall be maintained and kept free of all debris and rubbish.

(b) No structure, manufacturing or processing activity or storage of materials shall be permitted in buffer yards; however, access roads, service drives and utility easements which are not more than 35 feet in width are permitted to cross a buffer yard, provided that the angle of the center line of the road, drive or easement crosses the buffer yard at an angle not less than 60°.

(c) The parking of automobiles may be permitted in a portion of the buffer yard but only as determined by the Zoning Officer, in writing following review and recommendations by the Planning Commission.

B. Screen planting shall be located in the exterior portion of the required buffer yards and shall be in accordance with the following requirements:

(1) Plant materials used in screen planting shall be at least four feet in height when planted, shall be planted no more than three feet apart, and be of such species as will produce, within three years, a complete year-round visual screen of at least six feet in height.

(2) The screen planting shall be maintained continuously and any plant material which does not live shall be replaced within one year.

(3) The screen planting shall be so placed that at maturity it will be not closer than three feet from any eventual planned right-of-way or property line.

(4) A clear sight triangle shall be maintained at all street intersections and at all points where vehicular accessways intersect public streets.

(3) The screen planting shall be broken only at points of vehicular or pedestrian access.

C. Prior to the issuance of a building permit, plans for buffer yards and screening shall be submitted to the Zoning Officer. Said plans shall show the arrangement of all of the buffer yards and screening to be placed in such buffer yard. Said plan must be reviewed by the Planning Commission and approved in writing by the Zoning Officer before a building permit may be issued.

§ 250-80. Projections into yards.

Solar collectors and unenclosed ground-story terraces, patios, and porches may project into any required yard not more than 1/2 its required dimension and not more than 10 feet in any case. Chimneys, flues, columns, sills and ornamental architectural features may project not more than two feet into a required yard.

§ 250-81. Obstructions to vision.

A. Walls, fences, signs or other structures shall not be erected or altered, and hedges, trees or other plant material shall not be planted or maintained, which may obstruct the view of or by traffic on a nearby street or road.

B. A clear sight triangle of 25 feet, measured along the street lines of intersecting streets, shall be maintained; within which such structures or planting shall be limited to a height of not more than three feet above the street grade, excepting the trunks of street or other ornamental trees whose foliage is kept trimmed to a height of 10 feet above the street grade.

§ 250-82. Fences and walls.

[Amended 1-8-2013 by Ord. No. 348] Fences shall comply with the following:

A. Any fence located in the required front yard in a residential district shall:

(1) Be an open type of fence (such as a picket, metal post, wrought iron or split rail) with a minimum of 1:1 of open structural areas.

(2) Not exceed 38 inches in height.

(3) Not be constructed of chain-link metal. Fences are encouraged to be constructed using weather-resistant wood, vinyl materials that resemble wood, or vinyl materials that resemble historic-style metal-post fences.

B. In a residential district, on a corner lot at the intersection of two streets, the maximum height of a fence shall be 28 inches along the street from which the residence takes its address; the maximum in other yards shall be six feet, all subject to Subsection A(2) above.

C. Brick may be used for posts or as a base for a fence, provided the maximum fence height is not exceeded.

D. A fence shall not be required to comply with minimum setbacks for accessory structures. E. Fences that are not within a residential district shall have a maximum height of eight feet, subject to Subsection A(2) above.

F. A maximum height of 12 feet shall be permitted where the applicant proves to the Zoning Officer that such taller height is necessary to protect public safety around a specific hazard, such as around an electric substation.

G. Structural posts of a fence may extend above the height of the fence.

H. All fence heights shall be measured from the average surround ground level.

I. No fence may be built within an existing street right-of-way.

J. A fence may be built without a setback from a lot line; however, a small setback is recommended to provide future maintenance of the fence.

K. Barbed wire shall not be used as part of fences around dwellings.

L. No fence shall be constructed out of fabric, junk, junk vehicles, appliances, tanks or barrels.

M. If one side of a fence includes posts or supports, those posts or supports shall be placed on the interior of the fence, as opposed to facing onto a street or another lot.

N. If a fence is finished only on one side, the finished side shall face outward away from the lot or parcel upon which it is located.

O. No portion of any residential or commercial fences shall be electrified or contain barbed wire. Electrified fences shall not be permitted anywhere in the Borough. Any public facility or industrial area requiring barbed wire for the security of the facility and safety of the public may be permitted to use barbed wire on the top of their fences. This shall include but is not limited to the Newport Borough River Filtration Plant and the Newport Borough Sewer Treatment Plant.

§ 250-83. Habitable space.

A. The minimum habitable floor area of a dwelling unit hereafter erected shall be 600 square

feet. B. In the case of apartment houses, the minimum habitable floor area shall be not less than

300 square feet per apartment, except those apartments designed for and occupied exclusively by one person, which apartments shall each contain not less than 200 square feet of habitable floor area.

§ 250-84. Illumination.

Any illumination shall be arranged in such a manner that the light shall be shielded from any residential building and shall not illuminate the right-of-way of any street or highway.

§ 250-85. Performance standards.

Hereafter, all uses of land, buildings and structures or industrial processes shall be prohibited that may be noxious or injurious by reason of the production of emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or condition. Uses may be permitted, except those specifically prohibited in the district regulations or general provisions, if safeguards to protect the health, safety, morals and the general welfare of the community are established by a written agreement, between Borough Council and the property owner, subject to the securing of a permit therefor and subject to the carrying out of such provisions, restrictions and safeguards.

§ 250-86. Drainage regulations.

A. Prior to obtaining a permit for any construction or earthmoving activities, the applicant must submit an erosion and sedimentation control plan and surface water management plan for approval by Borough Council and the Borough Engineer. B. Such plans shall be in conformance with those standards set forth in Chapter 222, Subdivision and Land Development, and any other applicable state, county and Borough regulations.

§ 250-87. Control of traffic and protection of public safety.

The application for a permit for any and all uses shall be accompanied by a site plan showing building location, service and parking areas and access to highways. Where a driveway or access road gives access to state road or highway, approval by the Pennsylvania Department of Transportation shall be required.

§ 250-88. Reduction of lot dimensions.

The area, width or depth of any lot shall not be reduced by subdivision, sale or development so that the lot width, lot area, lot area per dwelling unit, courts and yards or other spaces are smaller, or so that the coverage is greater, than prescribed herein.

§ 250-89. Courts. Courts shall conform to the following:

A. An open space in the form of an inner court or outer court shall be provided in connection with any building in any residential or business district wherever any room therein in which a person or persons live, sleep or congregate, cannot be adequately lighted and ventilated. Such

court shall be adjacent to such rooms, the windows of which shall open in such court. (This section shall not apply to specialized commercial or manufacturing processes where controlled light and/or ventilation are required.)

B. Outer court.

(1) The width of any outer court upon which windows open from a living room, bedroom or dining room shall be not less than the height of any wall opposite such windows. However, when the depth of such court is less than six feet, the minimum width may be as little as twice the depth.

(2) The depth of an outer court formed by walls on three sides shall be not greater than 1 1/2 times the width.

(3) The width of an outer court shall be not less than 2/3 the height of any opposing wall forming said court.

C. Inner court.

(1) The least dimension of an inner court shall be not less than the full height of the walls enclosing such court, but not less than 50 feet for apartment buildings and not less than 10 feet for two-family dwellings.

(2) An open and obstructed passageway shall be provided for each inner court. Such passageway shall have sufficient cross-section area and headroom for the passage of fire-fighting equipment and shall be continuous from the inner court to a yard or an unobstructed open area with access to a street.

§ 250-90. Abandoned vehicles/motor vehicle storage.

No abandoned motor vehicle shall be permitted on public or private property in the Borough for a period in excess of 30 days unless it is enclosed in a four-walled enclosure so as to prevent it from public view, or unless a temporary permit has been granted as hereinafter provided.

A. Permits. Any person desiring to keep an abandoned motor vehicle(s) on private property in the Borough in excess of 30 days shall apply in writing to the Zoning Officer for a permit to do so. Such application shall set forth the location, description, and ownership of the land on which such motor vehicle(s) are to be kept, the number and the nature thereof, the titled owner(s) thereof, the purpose of keeping the motor vehicle(s), and shall be signed by the person(s) in whose name(s) the motor vehicle(s) titled. The application shall be accompanied by an application fee in an amount as set from time to time by resolution of the Borough Council.[Amended 1-8-2013 by Ord. No. 348]

(1) Upon receipt of the application, the Zoning Officer may issue a permit to allow the keeping of the motor vehicle(s) on private property for a period of 30 days.

(2) A permit may be renewed for an additional 30 days if the owner makes application for renewal prior to the expiration of a permit issued, and pays a renewal fee in an amount as set from time to time by resolution of the Borough Council. No more than one permit and one renewal may be issued for any one vehicle in a one-year time period.

§ 250-91. Wireless communication facilities.

A. Purpose.

- (1) To regulate the placement, construction and modification of communications and transmissions antennas and communications towers to protect the public safety and welfare.
- (2) To avoid potential damage to adjacent properties from tower failure and falling ice and debris.
- (3) To maximize use of any new transmission tower to reduce the number of towers needed.
- (4) To accommodate the need for cellular communication, radio, telephone, television and other similar types of communication structures in the Borough.
- (5) To minimize adverse visual effects of communication structures through proper design, siting, vegetative screening, co-usage and use of existing structures.
- (6) To protect the general health, safety and welfare of the residents of Newport Borough.
- (7) To preserve property values and to minimize adverse effects thereon.
- (8) To ensure that antennas and communication towers will be removed in the event that such structures are abandoned or become obsolete and are no longer necessary.

B. Use regulations.

- (1) A communication structure is permitted in the Manufacturing District unless such communication structure is exempt from local zoning regulations under applicable provisions of federal, state and local laws. In such a case, the applicant shall furnish applicable documentation proving such communication structure is exempt from these provisions.
- (2) A communication structure that is attached to an existing structure is permitted in the zoning district set forth in the immediately preceding subsection hereof. The height of the communication structure shall not exceed the height of the existing structure by more than 15 feet.
- (3) If the communication company proposes to construct a freestanding tower (as opposed to mounting the antenna on an existing structure), the communication company is required to demonstrate that it contacted owners of all communication structures within a one-quarter mile radius of the site proposed, that it sought permission to install the antenna on those structures, and that it was denied. The applicant shall submit all letters of request along with all responses to the Borough as part of the review requirements.

C. Parking. If the communication structure is fully automated, adequate parking shall be required for maintenance workers. If it is not automated, the number of required parking spaces shall equal the number of workers on the largest shift.

D. Access. Access to the communication structure shall be from a minimum twenty-foot right-of-way or access easement. Such access drive shall not adversely affect the natural flow of stormwater without installing necessary conveyance facilities.

E. Buffer.

(1) An evergreen buffer shall be required to surround the site. The buffer area shall be planted and maintained with evergreen plants or trees that shall be at least six feet in height at the time of planting. Planting shall not exceed 10 feet on center.

(2) The applicant shall demonstrate to the Borough that the tower will be as visually unobtrusive as possible, given technical, engineering, economic and other considerations.

F. Compliance and safety.

(1) The communication company must show that it is in compliance with all laws, orders, rules, regulations and other governmental requirements, including the fact that it is licensed by the Federal Communications Commission and that the proposed communication structure complies with all state and federal laws, orders, rules and regulations concerning aviation safety.

(2) The communication company shall demonstrate that the proposed communication structure and all accessory structures and uses are safe and that the surrounding areas will not be negatively affected by structure failure, falling ice, or other debris. The communication company shall also demonstrate compliance with guidelines recommended by the American National Standard Institute (ANSI) and that all such structures shall be fitted with anticlimbing devices, as approved by the manufacturer.

G. Review.

(1) A full site plan shall be required for all sites showing the communication structure, support equipment, fencing, buffering, access and all other items required by the Borough's subdivision and land development and zoning ordinances, and other applicable requirements.

(2) A site plan shall not be required if the communication structure is mounted on an existing structure. However, in no case shall this section exempt the applicant from obtaining a building permit and providing necessary documents for the permit.

(3) All other uses ancillary to the communication structure, including, but not limited to, a business office, maintenance depot, vehicle storage and similar uses, are prohibited from the communication structure site unless otherwise permitted in the zoning district in which the site is located.

(4) No communication structure shall be located in the front yard, as defined. In the case where no front yard exists, the setback percentages as set forth in setback provision hereof shall be applied; however, in no case shall the communication structure intrude into the minimum front building setback.

(5) Towers shall be not artificially lighted unless required by the Federal Aviation Administration.

H. Height regulations.

(1) The communication structure height, including any tower or freestanding tower portion thereof, shall be kept to the minimum height needed to function in accordance with industry standards. In case of co-usage, the communication structure height, including any tower or freestanding tower portion thereof, may be adjusted to account for other users. In no case shall any communication structure, including any tower or freestanding tower portion thereof, exceed a maximum height of 200 feet.

(2) Towers shall be of a minimum height necessary to accommodate the antenna and no higher than existing towers housing similar antennas.

(3) Towers shall not be constructed with guyed wires. I. Setbacks. The base of the communication structure, including any tower or freestanding tower portion thereof, shall be set back a minimum of 30% of the height thereof from all property lines associated with the lot of record. The tower shall be set back a minimum of 100% of the height thereof from all property lines associated with an existing residential dwelling.

J. Separation. A minimum of 10 feet shall be maintained between any freestanding communication structure, including any tower or freestanding tower portion thereof, and all buildings.

K. Fencing.

(1) A fence shall be required around the communication structure, unless the communication structure is mounted on an existing structure.

(2) The fence shall be no less than six feet in height, and no greater than eight feet in height. L. Removal. Any communication structure that is no longer in use for its approved purpose shall be removed at the owner's expense. The owner shall provide the Borough with a copy of the notice to the FCC of intent to cease operations and shall be given 90 days from the date of ceasing operations to remove the communication structure and all accessory structures. In the case of multiple operators sharing use of a single communication structure, this provision shall not become effective until all users cease operations. The equipment on the ground is not to be removed, however, until the tower portion of the communication structure has first been dismantled and removed.

§ 250-92. Adult-related businesses.

[Amended 1-8-2013 by Ord. No. 348] Adult-related businesses are permitted in the M District as a conditional use, subject to the following:

A. An adult-related business shall not be located within 250 feet of any residential dwelling and 500 feet from:

(1) Any other adult-related business.

(2) Any public or private elementary or secondary school, commercial day care, public park or playground or any place of worship.

B. No materials, merchandise or videos offered for sale, rent, lease, loan or for viewing upon the premises shall be exhibited, displayed or seen outside the building. C. All exterior windows and doors shall be covered.

D. Outdoor signs shall clearly identify the business as an “adult” enterprise but shall not refer to any sexual activity or materials being offered or sold on the premises. No sign shall graphically depict nudity. E. No outdoor live dancing, entertainment or solicitation or advertising of any kind shall be permitted.

§ 250-93. Kennels.

A. All kennel facilities shall be completely screened from view (see § 250-79B).

B. No kennel facilities shall be located in the front yard or front setback area.

C. Kennels shall only give care for domesticated animals.

§ 250-94. Outdoor storage.

A. Outdoor storage of any kind shall not be permitted unless it is a part of the operation conducted on the premises.

B. All storage shall be completely enclosed and screened from view.

C. No storage shall be permitted in a front yard.

D. All organic rubbish or trash shall be stored in a confined airtight, vermin proof container.

E. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except for fuel tanks directly connected to energy or heating devices.

Article XII. Nonconforming Buildings and Uses

§ 250-95. Purpose.

(Amended 11-17-15 by Ord. No. 364) All lawful uses of land or of a building, sign or other structure existing on the effective date of this chapter may be continued, altered, restored, reconstructed, sold or maintained even though such use may not conform to the use, height, area, yard and other regulations of the district in which it is located, providing such nonconforming uses shall comply with the provisions of this article.

A. To include fire damaged structures as a conditional use.

§ 250-96. Continuation.

Except as otherwise provided in this article, the lawful use of land or building existing at the date of the adoption of this chapter may be continued, although such use or building does not conform to the regulations specified by this chapter for the district in which such building or land is located; provided, however, that nonconforming lot shall not be further reduced in size.

§ 250-97. Alterations and reconstruction.

A. Repairs and structural alterations not constituting extensions, expansions or enlargements may be made to a nonconforming building or to a building occupied by a nonconforming use.

B. A nonconforming building which is damaged by fire, explosion or an act of God may be rebuilt and used for the same purposes, provided that:

(1) The reconstruction of the building is commenced within one year from the date of the destroying of the building and is carried to completion without undue delay.

(2) The reconstructed building does not exceed in height, area and volume of the building destroyed.

(3) The reconstructed building shall comply with the area, size and yard regulations of the district in which it is located.

§ 250-98. Extensions, expansions, and enlargements.

The Zoning Hearing Board may authorize, as a special exception, extensions, expansions and enlargements of lawful nonconforming uses and buildings, and in deciding upon the granting or denial of any such special exceptions, the Board shall consider, in addition to all other conditions, standards and criteria set forth in this chapter.

A. The extension, expansion or enlargement shall conform to the height, area, yard and coverage regulations of the district in which it is located.

B. The extension, expansion or enlargement shall comply with Article XIV of this chapter with respect to off-street parking.

C. The extension, expansion or enlargement shall not replace a conforming use.

D. The extension, expansion or enlargement shall not exceed that which is necessary or essential to preserve the use as viable, or to accommodate growth.

E. The extension, expansion or enlargement shall not be detrimental to the public welfare, safety and health.

§ 250-99. Change of use.

Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

§ 250-100. Abandonment and discontinuance.

A. If a nonconforming use of a building or land is abandoned for any period of time, the nonconforming status thereof shall be lost, and the subsequent use of such building or land shall be in conformity with all the provisions of this chapter.

B. If a nonconforming use of a building or land ceases or is discontinued for a continuous period of one year or more, the nonconforming status thereof shall be lost, and subsequent use of such building or land shall be in conformity with all the provisions of this chapter.

C. The removal of a nonconforming mobile home from the site it occupied shall constitute abandonment of the site so occupied and subsequent use of said site shall conform with the provisions of this chapter.

D. The removal of a mobile home from a residential lot already occupied by a residential building shall constitute abandonment of the nonconforming use and such use shall not thereafter be permitted.

E. Mobile home parks, trailer camps or trailer parks which are nonconforming under the terms of this chapter shall be operated in accordance with Public Health Regulations, Commonwealth of Pennsylvania, under the provisions of the Act 175 of April 9, 1929, PL. 177, as amended, Editor's Note: See 71 P.S. § 51 et seq. and all other applicable laws.

§ 250-101. District changes.

Whenever the boundaries or uses of a district shall be changed, the foregoing provisions shall also apply to any nonconforming uses or buildings existing therein or created thereby.

§ 250-102. Registration.

The Zoning Officer shall identify and register all nonconforming uses and structures when new subdivision and land development plans, which contain nonconforming uses or properties, are presented. The officer shall maintain records for each nonconforming use or structure as provided by the property owner, the names and addresses of all persons having an ownership or interest in the property, a description of the property, its location, its zoning classification, a detailed description of each nonconforming use and structure, the manner in which it is nonconforming, the date and a detailed description of each alteration, restoration, reconstruction, change, extension, and enlargement, the date of any abandonment or discontinuance, the date of issuance of each certificate of nonconformance and any other pertinent information.

Article XIII. Signs

§ 250-103. Purpose.

The Borough Council believes that appropriate signage creates a much more favorable image and perception of the Borough as a community and enhances the appearance and increases the value of properties within the Borough. Further, the regulation thereof contributes to the health, safety, and welfare of the Borough, and helps insure orderly development consistent with the purposes hereof, and specifically preserves and restores the qualities of the Borough, preserves and restores the harmonious outward appearance of buildings and the signage thereof which will also help attract business, residency, and trade in the Borough. Thus, all

signage posted upon any property within the Borough of Newport shall be in accordance with this chapter and all other applicable regulations. In every instance, the most restrictive interpretation shall apply, and this chapter shall be liberally construed to be as broad and comprehensive as possible.

§ 250-104. General sign requirements (applies to all districts).

- A. No sign shall be permitted, erected or maintained in any district or on any property or for any purpose, unless the sign complies with the provisions of this chapter.
- B. No sign shall be installed or erected, nor existing signs altered or moved, without first obtaining a sign permit from the Borough of Newport with the exception of those signs listed in § 250-107.
- C. All signs shall be kept in a proper state of repair and properly maintained.
- D. All signs shall be maintained in good working condition. The sign must remain readable and lighting, if any, must work or the lighting must be removed.
- E. No signs shall be painted on or otherwise located on the concrete, asphalt or other material of any sidewalk(s), street, alley or roadway.
- F. No sign shall be constructed, erected, or placed in such a manner as to restrict or collect precipitation to such a degree or in any manner that the sign may collapse, or may release or direct unsafe quantities of precipitation on sidewalk(s) or roadway(s).
- G. Regardless of other provisions in this chapter to the contrary, signs identifying schools, colleges, churches, hospitals or other institutions of a similar nature may be erected and maintained in any district, provided:
 - (1) The size of any such sign is not in excess of 40 square feet.
 - (2) That not more than one sign is placed on a property in a single and separate ownership, unless such property fronts upon more than one street, in which case one such sign may be erected on each frontage.
- H. The bulb or light source for a lighted or illuminated sign shall be shielded and concealed from view whenever possible.
- I. If a property is located in more than one district, the more restrictive district's regulation and restrictions shall apply to that property.
- J. No sign shall have an illuminated source which would create a traffic danger.
- K. No vulgar, indecent or obscene advertising matter shall be displayed in any manner.
- L. No sign shall be permitted which rotates and/or causes interruption or flashing of light.
- M. No sign shall be placed in a required buffer or screen planting area.
- N. If a property is located in more than one district, the more restrictive district's regulation and restrictions shall apply to that property.

§ 250-105. Placement standards.

- A. No sign shall be affixed to a utility pole, traffic control or street sign or structure, tree, shrub, rock or natural object.
- B. Signs shall not be mounted on roofs or extend above the roof line (unless mounted on an extended wall above the roof line, in which case the sign may not extend above the top of said wall).
- C. No projecting sign except those authorized by the Borough Council, including traffic signs and similar regulatory notices, shall be allowed within the dedicated right-of-way.
- D. No sign shall be placed in such a position that it will cause danger on a street by obscuring view and, in no case, except official traffic and street signs, shall signs be placed within the required clear sight triangle.
- E. No sign together with any supporting framework shall extend to a height above the maximum building height allowed within the respective district.
- F. No sign shall be erected or located as to prevent free ingress to or egress from any window, door or fire escape.
- G. Signs may be located within a required yard, except not within a required buffer yard or required screen planting.

§ 250-106. Signs prohibited in all districts.

- A. No animated, sequential, flashing or oscillating sign shall be permitted in any district. Rotating barber shop sign is permitted, so long as such barber sign does not violate other provisions or restrictions of this chapter and is located at the barber shop.
- B. Street banners are prohibited, except in the case of civic or charitable nonprofit organizations. When permitted for such civic or charitable nonprofit organization, such banners are exempted from the size restrictions for the given district as provided in this chapter, but such banner shall fully comply with the time limits for display set forth in this chapter. Notification should be given to the Borough in advance as well as banner location and size.
- C. No illuminated or moving signs shall be permitted in Residential Zoning Districts.
- D. Any sign placed on or over a public sidewalk.
- E. Any sign which flashes, moves or emits smoke, steam, other visible particulates or odor.
- F. Any sign that projects above the roof line of the building on which it is mounted.
- G. Spinners, pennants, streamers and any moving object used for commercial advertising purposes, whether or not any of the aforesaid items contain a message; except that banners and flags are permitted when authorized under any other pertinent provision of this article.
- H. Flashing, electronically changing messages; blinking, twinkling, animated or moving signs of any type, except those portions of sign which indicate time and temperature changes. This

restriction specifically includes window signs and portable freestanding signs. This shall not prohibit Christmas lighting or displays.

I. Signs which contain information that states or implies that a property may be used for any purpose not permitted under the provisions of this chapter in the zoning district in which the property to which the sign relates is located.

J. Signs that are of such character, form, shape or color that they imitate or resemble any official traffic sign, signal or device that have any characteristics which are likely to confuse or distract the operator of a motor vehicle on a public street.

K. Signs that use reflective materials to give the appearance of flashing, blinking, twinkling or electronically changing messages.

L. Signs or displays that include words or images that are obscene, pornographic or highly offensive to public decency.

M. Balloons of greater than five cubic feet that are tethered to the ground or structure and are primarily intended for advertising purposes.

N. Signs permanently affixed, placed, maintained, erected, constructed or displayed upon any public property, public street, public sidewalk, public right-of-way, tree, utility pole, stone, cliff and other natural objects, except those signs authorized by the Borough Council.

§ 250-107. Signs permitted in all districts.

The following signs are permitted in all districts and shall not require a permit:

A. Parking and traffic control signs, not exceeding six square feet, where such signs are authorized by the Zoning Officer or by the Borough Council. Said sign shall not describe any products of said business.

B. Traffic control, parking or signs identifying services of hospitals or medical centers may be authorized by Borough Council.

C. Special information signs. These shall include only the following: men, women, rest rooms, hours of operation, credit cards accepted and the name of credit card, membership in state or national organizations, revolving red- and white-striped barber poles, state inspection station, gasoline pump identification, gallonage register and identity of type of work done in a service area. Such signs shall be permitted only where attached to the building or equipment. No letter in excess of nine inches vertical height shall be permitted in such signs. The total area of such signs shall not be included in calculating permitted areas.

D. Memorial plaques and historical tablets that have an area of less than one square foot.

E. Signs on mailboxes with printing not exceeding three inches in height.

F. Building cornerstones.

G. Nameplate signs that have an area no greater than one square foot.

H. Signs which are placed in the interior of a building, whether or not visible from a public street.

I. Real estate signs as follows:

(1) For advertising the sale or rental of the premises upon which the sign is erected, provided that the total area of any such side of such sign on any one street frontage of any property in single and separate ownership shall not exceed four square feet in any residential district.

J. No trespassing signs. Trespassing signs and signs indicating private ownership of streets or other property, provided that the total area of any sign shall not exceed one square foot and shall be spaced at intervals of not less than 50 feet of street frontage.

K. Directional signs. Directional signs for municipal uses are permitted, provided that the sign area does not exceed six square feet.

L. Public utility sign. Signs in connection with the identification, operation or protection of any public utility or municipal activity, on the same lot, provided that the total sign area on any one street frontage of any property shall not exceed eight square feet. If the public health or safety would require additional or larger signs, the Zoning Hearing Board may grant additional sizes or larger size signs.

M. Contractor's sign. Temporary signs of contractors placed on the premises where the work is being performed, provided that:

- (1) The area of any one side of any such sign shall not exceed 12 square feet.
- (2) Not more than one sign for each contractor be placed on any property.
- (3) The sign be removed within 30 days after completion of the work.

N. Special events sign. Temporary signs advertising fairs, special events, auction sales, yard sales and the like shall be permitted, provided that:

- (1) Each sign shall not consist of more than two sides.
- (2) The square footage per side shall not exceed 32 feet.
- (3) The sign be placed no earlier than 20 days prior to the event advertised.
- (4) The sign be removed within 10 days following such event.
- (5) In no instance shall any sign be maintained for a period of time in excess of 30 days.

O. Rental sign. For apartments or rental developments, one sign identifying the name of the development and the name of the owner, manager, realtor or person to contact, telephone number and the number of units available, not exceeding 16 square feet on any one face and 32 square feet total area may be permitted, but no more than one sign may be erected facing on each street serving the development.

P. Flags. Flags with commercial advertising shall be permitted as an accessory sign in a commercial district. Flags shall be subject to all of the following provisions:

- (1) Limited to one per use.
- (2) No larger than three feet by five feet and in good condition.

(3) Displayed only during business hours.

(4) Can be a wall mount or properly affixed to the building within which such use is conducted, with the bottom or lowest portion of the flag projecting or hanging no less than seven feet above the public sidewalk or public street.

(5) Do not project greater than six feet over the public right-of-way.

Q. Garage sale signs. Up to two auction, yard or garage sale signs per event, not exceeding four square feet, are permitted and must be removed within 48 hours after such event.

R. Political signs. Political signs are permitted, provided that they do not exceed four square feet and are placed on private property no more than 60 days prior to the election or referendum and are removed within 10 days following the election or referendum. No political sign shall be placed on Borough property or pole for which permission has not been received. On election days, political signs may be placed on Borough property being used as an official polling place. Signs may be placed no earlier than 5:00 p.m. the day preceding the election and must be removed no later than 8:00 p.m. the day following the election.

S. Signs not visible from beyond a lot line.

T. A “no trespassing” sign, or sign of any similar nature or for similar purpose or indicating the private nature of a driveway or property, may be erected or maintained, provided that the size of any sign shall not exceed one square foot, maximum length 12 inches.

U. A sign advertising a home occupation or business shall not be larger than 12 inches by 18 inches and shall not include or display any writing or other markings except the name, occupation and logotype or trademark, if appropriate, of the practitioner. Such a sign shall not be illuminated, with the exception of medical offices during the hours such offices are open for the care of patients.

V. Signs for nonconforming businesses. Businesses operating a legal nonconforming use through continual operation prior to zoning or a zoning change may be permitted one sign not to exceed 25 square feet.

§ 250-109. Signs in Commercial and Manufacturing Districts (C-1, C-2, M).

The following provisions shall apply to all signs placed in Commercial and Manufacturing Districts:

A. One or more signs may be attached to, mounted on or placed freestanding next to the building front, provided that the total area of all such sign or signs does not exceed one square foot for each one linear foot of building frontage along each street, but subject further to the limitation that: a building having 40 linear front feet or more shall be limited to a maximum of 40 square feet of total sign area or signage.

B. The area of any wall sign attached to a building shall not exceed 10% of that wall area of the building on or from which the sign is erected or attached.

C. The sign shall relate to the business on or in the premises.

D. Flags with commercial advertising shall be permitted as an accessory sign in a commercial or manufacturing district. Flags shall be subject to the provisions in § 250-107P.

E. Portable freestanding signs shall be permitted when accessory to a commercial use, subject to all of the following provisions:

- (1) Limited to one portable freestanding sign per business establishment.
- (2) Contain a total area not exceeding two feet by three feet per sign face.
- (3) Displayed only during business hours.

§ 250-110. Signs in Conservation District (C).

The following provisions shall apply to all signs placed in the Conservation District:

A. A sign in this district shall not exceed nine square feet unless otherwise specified as a requirement for public safety or government mandate.

B. A sign related to a special event may exceed the above limit; provided, however, the signs are limited to 10 days and the event has prior approval of Borough Zoning Officer.

§ 250-111. Illumination of permitted signs.

A. In any Conservation, Public/Semipublic or Residential District, no signs may be illuminated.[Amended 1-8-2013 by Ord. No. 348]

B. In any nonresidential district, any permitted sign may be illuminated.

C. Any floodlighting of any sign in any district shall be shielded so that the source of light shall not be directly visible without adequate diffusion from any point off the lot on which the sign, building or structure being illuminated is erected and so that only the sign is directly illuminated.

§ 250-112. Maximum height of signs.

A. No sign shall exceed the maximum height restrictions as established in the respective district.

B. The maximum height shall mean the vertical distance measured from the average ground level immediately below a sign to the highest point of the sign and its supporting structure.

C. The minimum height of a sign shall be raised above the ground level as needed to ensure proper sight distance along any street.

§ 250-113. Removal of nonconforming signs.

All nonconforming signs shall be removed from the premises within 30 days of the abandonment of the use.

§ 250-114. Violations and penalties.

The penalty provisions of this chapter shall apply to any violation of this article.

Article XIV. Off-Street Parking and Loading

§ 250-115. Purpose.

- A. To provide required parking spaces which shall be located on or near the premises containing the principal use.
- B. To provide off-street parking, loading and unloading facilities to lessen congestion in the Borough streets.
- C. To promote commercial viability of the Borough by maintaining adequate parking for area merchants and businesses and preventing a further decrease in the number of spaces, so as to attract business and trade in the Borough.

§ 250-116. General requirements.

Any lot, residence, dwelling, building or structure hereafter erected, altered, used or occupied for more than a single dwelling unit or any owner-occupied dwelling hereafter altered, changed or used other than as an owner-occupied residence shall be provided with minimum off-street parking spaces, together with adequate accessways, driveways, loading and unloading facilities or other means of circulation and access to and from a public or private street as set forth below:

- A. No new building or residence hereafter constructed and no existing building or structure or lot shall hereafter be enlarged or modified, and no use or activity shall be conducted or expanded thereon or therein unless provision is made, by the owner of the property, for the required off-street parking space or spaces on the same premises as herein required.
- B. No parking space or area required by this chapter shall be used for any use that interferes with its availability for the parking need it is required to serve; accordingly, a trailer or mobile home shall not be a need and shall not occupy or be permitted on a parking space as otherwise required herein.
- C. No curb cuts will be permitted without the prior approval of Borough Council.
- D. If at any time a parking space is not maintained or is not used for the express use for a double or multi-dwelling-unit dwelling as contemplated or required in this chapter, then in that event, such a space must be used as required or the building must revert back to its original character or occupancy prior to the approval of the permit for the change or prior to the issuance of a parking permit or permits.

§ 250-117. Required parking spaces.

A. Residential parking.

(1) Any single or double family dwelling must include and provide at least two off-street parking spaces for each dwelling unit; provided, buildings with double units, with no more than 40 feet of frontal street parking right-of-way, must include and provide at least three off-street parking spaces for the entire property per unit.

(2) Dwellings with three or more dwelling units must include and provide a minimum of 1 1/2 spaces for each dwelling unit. All minimum space calculations shall always be rounded up to the next whole unit.

B. Nonresidential parking. Unless the applicable zoning districts state the contrary, the following parking space requirements shall be met:[Amended 1-8-2013 by Ord. No. 348]

Use	Minimum Number of Spaces
Hotel or motel	1 space per guest room plus 1 space for every employee on the largest employment shift
Boarding house	1 space for each rental unit plus 2 spaces for the permanent residence
Group home or halfway house	1 space for each sleeping room plus 1 space for each employee
Bed-and-breakfast	1 space for each guest room plus 2 spaces for the permanent residence
Restaurant or tavern	1 space for each 3 seats (minimum of 20 for a fast-food restaurant)
Cinema, theater, auditorium, community centers	1 space for every 3 fixed seats, or where the capacity is not determined by the number of fixed seats, 1 space for each 60 square feet of floor area devoted to patron use
Social/fraternal clubs	1 space for each 400 square feet of office/administrative area plus 1 space for every 60 square feet of assembly area
Places of worship	1 space for every 3 fixed seats, or where the capacity is not determined by the number of fixed seats, 1 space for each 60 square feet of primary area devoted worship services
Schools, primary or secondary	1 space per 15 students in elementary schools; 1 space per 10 students in other schools or 1 space for each 60 square feet of auditorium space, whichever is greater
Commercial/trade school	1 space for each 2 students based on the design capacity of the building(s) plus 1 space for each 400 square feet of administrative floor area
Daycare centers	1 space per employee plus 1 space per each 10 children based upon the maximum number of children who could be lawfully on the premises at any time

Funeral home, crematorium, mortuary	1 space for each 100 square feet of gross floor area used for memorial services, body viewing area, business office and products display
Health and fitness facilities	1 space for each 200 square feet of gross floor area plus 1 space for each employee on the largest employment shift
Public library	1 space for each 400 square feet of gross floor area
Utilities and facilities	1 space for each 400 square feet of gross floor area plus 1 space for each stored vehicle
Municipal buildings and facilities	1 space for every 400 square feet of gross floor area plus 1 space for every 60 square feet of assembly area
Retail services and convenience stores except furniture and appliance sales	1 space for each 200 square feet of gross floor area plus 1 space per employee on the largest employment shift
Contractors establishments	1 space for each 200 square feet of floor space where customers or clients are permitted
Professional, scientific and technical services, except medical and dental offices and clinics	1 space for each 200 square feet of floor space where customers or clients are permitted plus 1 space for each employee on the largest employment shift
Medical and dental offices and clinics	1 space for each 100 square feet of gross floor area
Medical and dental laboratories	1 space for each 200 square feet of gross floor area
Elderly housing	1 space for every three dwelling units
Nursing/convalescent homes	1 space per four beds
Industrial uses	1 parking space for every 600 square feet of gross floor used for industrial purposes (processing, assembly, treatment, storage, fabrication, warehousing, etc.) or 1 space for every 2 employees on the 2 largest shifts, whichever is greater, plus 1 parking space for every 400 square feet of office/administration area
Personal services	1 space for each 200 square feet gross floor area plus 1 space per employee on the largest employment shift
Automotive services and repair	1 space for each 200 square feet of gross floor area plus 1 space per employee on the largest employment shift
Automotive sales	1 space for every 400 square feet of gross floor area plus 1 space for each employee on the largest employment shift
Recreational uses	
– 1. Athletic fields	20 spaces for each field

– 2. Basketball courts	5 spaces for each court
– 3. Bowling alley	3 spaces for each alley
– 4. Miniature golf	3 spaces for each hole
– 5. Park	2 spaces for each acre
– 6. Skating rink	1 space for each 100 square feet of skating area
– 7. Swimming pool	1 space for each 20 square feet of swimming surface plus 1 space for each three 300 square feet of building area
– 8. Tennis and racquetball courts	2 spaces for each court plus 1 space for each 200 square feet non-court floor area

§ 250-118. Design standards.

All off-street parking areas shall be designed to meet the following standards:

A. Access to the parking spaces shall be located and designed so as to create or allow minimum interference with the street traffic. Entrances and exits for all parking spaces must be to or from that abutting street or right-of-way with the least amount of traffic, and which allow the minimum interference with street traffic.

B. All parking spaces shall be physically separated from the street by a minimum three-foot to maximum six-foot setback and shall not interfere with the adjoining sidewalk, if any.

C. Parking spaces and areas shall be designed, installed and used so that each vehicle may proceed to and from any parking space without requiring the moving of any other vehicle.

D. All parking spaces and entranceways shall be graded, surfaced and drained to the satisfaction of the Borough's Engineer as deemed advisable to prevent nuisances of dust, erosion, increased water flow across streets or adjoining property and unsafe pedestrian or vehicular travel.

E. No grass parking spaces shall be permissible.

F. Parking spaces must measure no less than 10 feet by 19 feet, excluding drives and accessways. No part of any public right-of-way shall be used in computing the required area for parking and no parking area shall be located in any setback area.

G. A parking space shall, at all times, be kept clean and free from rubbish and debris.

H. Surfacing. Off-street parking shall be paved so as to provide a permanent, durable and dust-free surface. Entrance and exit drives shall be paved in accordance with PA DOT 408 Specifications.

I. Drainage shall be installed to prevent water runoff to adjacent properties. When determined necessary by the Borough Engineer, stormwater drainage facilities shall discharge to an adequate storm drainage system. All storm drainage facilities and plans shall be approved by the Borough Engineer. J. Entrance and exit drives shall be a minimum at least 16 feet wide for one-way access use and at least 24 feet wide two-way access.

K. Fire lanes shall be provided where determined necessary by the Borough Council, Planning Commission and Zoning Officer.

L. Circulation control shall be provided in one-way directional travel whenever possible. Drives shall be uniform in width and provide for ninety-degree intersections wherever possible. Circulation traffic lanes shall be at least 16 feet wide for one-way traffic, and at least 24 feet wide for two-way traffic in all areas not controlled by entrance or exit drives and parking access drive standards.

M. Traffic control. Entrance and exit arrangements and traffic signals may be required, depending on the amount of anticipated traffic and the condition of the public street.

N. Service traffic. Service and customer traffic shall be separated whenever possible. Loading and unloading areas shall not interfere with customer parking area.

O. Interior landscaping. Parking areas with more than 10 spaces shall be designed with interior landscaping. Landscaping shall be shown on land development plans and shall indicate types of trees and foliage and their location. Vegetation shall not interfere with required site distances. P. Parking areas shall enable each motor vehicle to proceed to and from the parking space provided for it without necessitating movement of other vehicles, except those of a single-family or two-family dwelling.

Q. Parking access drives.

(1) Parking spaces shall be accessed by means of an access drive. Spaces shall be set back at least two feet from property lines. Areas between property lines and parking spaces shall be landscaped.

(2) Parking areas shall not require or encourage vehicles to back into a public street or alley in order to leave a parking space, except for a single-family or two-family dwelling.

R. Dead-end drives. Parking areas with dead-end drives shall provide at least five feet of backup or turnaround area for the end parking spaces.

S. Handicapped parking.

(1) Number of spaces. Any lot with at least 10 off-street parking spaces shall include a minimum of one handicapped space. At least 3% of all off-street parking spaces required for a use shall be handicapped spaces.

(2) Location. Handicapped spaces shall be located where as near as possible to an accessible building entrance.

(3) The minimum space size shall be 13 feet by 20 feet for each space.

T. Parking space marking. Spaces shall be marked on the lot surface by a four-inch-wide painted lines. Lines shall be replaced as necessary to ensure their continuous visibility.

U. Signs. Entrances and exits shall be clearly marked by signs. One-way access drives shall be marked on the drive surface and by above-grade signs.

V. Public rights-of-way excluded. Parking permitted in public rights-of-way shall not be used in calculating numbers of parking spaces required.

§ 250-119. Loading and unloading space.

A. All commercial and industrial uses, other than those in the C-2 Downtown Commercial District, shall have to provide off-street loading facilities sufficient to accommodate the maximum demand generated by the use. The facilities shall comply with the regulations contained in this section.

B. Standards for loading facilities. All off-street loading and unloading spaces shall meet the following standards:

- (1) At least one space shall be sizable enough as determined by the Zoning Officer to easily accommodate the largest vehicle that will be used for loading and unloading. In most cases, the minimum dimensions should be 12 feet wide and 55 feet long.
- (2) Loading spaces shall have paved surfaces.
- (3) Loading and unloading areas shall not be used to meet off-street parking requirements.
- (4) Appropriate means of access to streets or alleys shall be provided.
- (5) No facility shall be designed or used in any way that would cause a nuisance, hazard or unreasonable impediment to traffic.
- (6) Each space shall have sufficient maneuvering room, separate from other parking and loading areas, to preclude traffic conflicts within the lot.

C. Location.

- (1) Loading spaces shall not be located in required setbacks.
- (2) Loading spaces shall not be located more than 300 feet from building entrances.
- (3) Loading spaces shall be located entirely on the lot being served and be situated so that each space and all maneuvering room is outside of any required buffer area, off-street parking setbacks and street rights-of-way.

§ 250-120. Nuisance.

Any property or premises or use thereof inconsistent herewith is hereby declared to be and is a public nuisance and a violation of this article and shall be subject to injunctive, equitable or other abatement action, at the cost, including all attorney fees and other expenses and costs, of the property owner or user or both, for purposes of enjoining any violation or potential violation hereof.

Article XV. Floodplain Management

§ 250-121. Purpose.

The purpose of this article is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditures of public funds for flood protection and relief, by:

- A. Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
- B. Restricting or prohibiting certain uses, activities and development in the Floodway and Flood Fringe Districts.
- C. Requiring all those uses, activities and developments permissible in the Floodway and Flood Fringe Districts to be protected and/or floodproofed against flooding and flood damage.
- D. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

§ 250-122. Applicability.

This article shall apply to all lands within the jurisdiction of the Borough of Newport and shown on the official Floodway and Flood Fringe Map as being located within the boundaries of the Floodway and Flood Fringe Districts.

§ 250-123. Interpretation of district boundaries.

Where interpretation is needed concerning the exact location of any boundary of the Floodway or Flood Fringe Districts, the Zoning Hearing Board shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

§ 250-124. Fees for boundary interpretations and applications for special exceptions.

Fees for determination by the Zoning Hearing Board of the location of boundaries under § 250-123 of this article and for passing upon applications for special exceptions under § 250-134 of this article, shall be as established from time to time by resolution of the Borough Council.

§ 250-125. Borough Engineer as advisor to Zoning Hearing Board.

Whenever the Zoning Hearing Board is requested to make a determination regarding the location of boundaries under § 1503 of this part or to pass upon an application for a special

exception under § 250-134 of this article, the Borough Engineer shall serve as technical advisor to the Zoning Hearing Board on the engineering matters involved.

§ 250-126. Compliance.

No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this chapter.

§ 250-127. Warning and disclaimer of liability.

A. The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the Floodway and Flood Fringe and General Floodplain Districts, or that land uses permitted within such districts, will be free from flooding or flood damages.

B. This article shall not create liability on the part of the Borough of Newport or any office or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

§ 250-128. Description of districts.

A. The Floodway and Flood Fringe Districts shall include all areas subject to inundation by waters of the regulatory flood. The basis for the delineation of these districts shall be the Flood Insurance Study, Borough of Newport, prepared by the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

B. The Floodway, Flood Fringe and General Floodplain Districts shall be overlays to the underlying districts shown on the Official Zoning Map, and as such, the provisions for these two districts shall serve as a supplement to the underlying district provisions. Where there is any conflict between the provisions or requirements of the Floodway, Flood Fringe and General Floodplain District and those of any underlying district, the more restrictive provisions and/or those pertaining to the Floodway, Flood Fringe and General Floodplain Districts shall apply.

C. The General Floodplain District (FA) shall be that floodplain area for which no detailed flood profiles or elevations have been provided. They are shown on the maps accompanying the FIS prepared by FIA. Where the specific one-hundred-year elevation cannot be determined for this area using other sources of data such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques.

D. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly

reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough.

§ 250-129. Floodway, Flood Fringe and General Floodplain Map.

The boundaries of the Floodway, Flood Fringe and General Floodplain Districts are established as shown on the Official Floodway, Flood Fringe and General Floodplain Map of the Borough of Newport which is declared to be a part of this chapter and which shall be kept on file at the Borough offices. This Map shall be subject to periodic revision by the Borough in any respect not involving the delineation of the Floodway, Flood Fringe and General Floodplain Districts.

§ 250-130. District boundary changes.

The delineation of the Floodway, Flood Fringe and General Floodplain Districts may be revised by the Borough of Newport where natural or man-made changes have occurred, or where delineations can be shown to be in error due to mapping limitations. In no case will the limits of such districts be altered without the concurrence of the Administrator of the Federal Insurance Administration, as provided in the Rules and Regulations for the National Flood Insurance Program.

§ 250-131. District provisions.

A. All uses, activities and development occurring within the Floodway, Flood Fringe and General Floodplain Districts shall be undertaken only in strict compliance with the provisions of this article and with all other applicable codes and ordinances, and Chapter 222, Subdivision and Land Development.

B. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels of any watercourse, drainage ditch or any other drainage facility or system.

§ 250-132. Floodway District.

A. In the Floodway District, the placement of any mobile homes shall be prohibited.

B. In the Floodway District, no structural development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying stream improvements which have been approved by all appropriate local and/or state authorities. When a developer proposes to offset the effects of structural development in the Floodway District by construction of stream improvements, he shall submit an engineering study prepared by a registered professional engineer which fully evaluates the effects of such construction. The report shall use the regulatory flood as herein defined as the basis of analysis.

C. Permitted uses. In the Floodway District, the following uses and activities are permitted, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance and provided that they do not require structures, fill or storage of materials and equipment:

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

(2) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet ranges and hunting and fishing areas.

(3) Residential uses such as yard areas, gardens, play areas and parking areas.

(4) Industrial and commercial uses such as yard areas, parking and loading areas and airport landing strips.

D. Uses permitted by special exception. The following uses and activities may be permitted by special exception, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance:

(1) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipe lines, water and sewage treatment plants and other similar or related uses. Editor's Note: Original Subsection A, regarding structures considered necessary, which preceded this subsection, was repealed 1-8-2013 by Ord. No. 348.

(2) Water-related uses and activities such as marinas, docks, wharves and piers, if designed to minimize impact on, and damages from flooding.

(3) Extraction of sand, gravel and other materials.

(4) Temporary uses such as circuses, carnivals and similar activities.

(5) Storage of materials and equipment, provided that they are not buoyant, flammable or explosive and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement and/or can be readily removed from the area within the time available after flood warning.

(6) The storage, production or use of the following materials and substances shall be prohibited in the Floodway District:

(a) Acetone.

(b) Ammonia.

(c) Benzene.

(d) Calcium carbide.

(e) Carbon disulfide.

(f) Celluloid.

(g) Chlorine.

(h) Hydrochloric acid.

(i) Hydrocyanic acid.

- (j) Magnesium.
- (k) Nitric acid and oxides of nitrogen.
- (l) Petroleum products.
- (m) Phosphorus.
- (n) Potassium.
- (o) Sodium.
- (p) Sulphur and sulphur products.
- (q) Pesticides, including insecticides, fungicides and rodenticides.
- (r) Radioactive substances, insofar as such substances are not otherwise regulated.

E. All uses, activities and structural developments shall be undertaken in strict compliance with the floodproofing provisions contained in all other applicable codes and ordinances.

§ 250-133. Flood Fringe and General Floodplain Districts.

In the Flood Fringe and General Floodplain Districts, the placement of any hospital, nursing home, jail, mobile home park or mobile home subdivision shall be prohibited. Any other development and/or use of land shall be permitted in accordance with the regulations of the underlying district provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances, including the Building Code and Chapter 222, Subdivision and Land Development.

§ 250-134. Special exceptions.

A. In passing upon applications for special exceptions, the Zoning Hearing Board shall consider all relevant factors specified in other sections of this chapter, and:

- (1) Special exceptions shall not be issued by the Board within the Floodway District if any increase in flood levels during the regulatory flood discharge would result.
- (2) Special exceptions may be issued by the Board for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the regulatory flood elevation, in conformance with the procedures of Subsection A(3), (4), and (5) of this section.
- (3) Special exceptions shall only be issued by the Board upon:
 - (a) A showing of good and sufficient cause.
 - (b) A determination that failure to grant the special exception would result in exceptional hardship to the applicant.

(c) A determination that the granting of a special exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(4) Special exceptions shall only be issued upon a determination that the special exception is the minimum necessary, considering the flood hazard, to afford relief.

(5) The Board shall notify the applicant in writing over the signature of a community official that:

(a) The issuance of a special exception to construct a structure below the regulatory flood elevation will result in increased premium rates for flood insurance.

(b) Such construction below the regulatory flood elevation increases risks to life and property. Such notification shall be maintained with a record of all special exception actions as required in Subsection B of this section.

B. The Board shall:

(1) Maintain a record of all special exception actions, including justification for their issuance.

(2) Report such special exceptions issued in its annual report submitted to the Federal Insurance Administrator.

§ 250-135. Nonconformities.

A structure or use of a structure or land which lawfully existed before the enactment of these provisions but which is not in conformity with these provisions may be continued subject to the following conditions:

A. Existing nonconformities (structures and/or uses) located in the Floodway District shall not be expanded or enlarged, unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying stream improvements and complies with all other applicable codes and ordinances.

B. Any modification, alteration, repair, reconstruction or improvement of any kind to a nonconformity (structure and/or use) located in the Floodway District to an extent or an amount of less than 50% of its value should be elevated and/or floodproofed to the greatest extent possible.

C. The modification, alteration, repair, reconstruction or improvement of any kind to a nonconformity (structure and/or use) located in either the Floodway District or the Flood Fringe District, to an extent or amount of 50% or more of its value, shall be undertaken only in full compliance with the provisions of this and any other applicable ordinance.

D. Uses or adjuncts thereof which are or become nuisances shall not be permitted to continue.

§ 250-136. Damaged structures.

(Amended 11-17-15 by Ord. No. 364) The owner of any structure damaged as a result of flooding or inundation or fire shall rebuild or repair the structure within(3) three years from the date the damage occurs. In the event a structure is damaged beyond repair, the owner shall demolish the structure within 30 days of the date of receipt of notice to demolish from the Building Official.

§ 250-137. Abrogation and greater restrictions.

To the extent [consistent with, or] more, restrictive than the provisions of this article, the provisions of any other part of this chapter, as enacted or hereafter amended, shall govern the use of land and the location, relocation, construction, reconstruction, enlargement or structural alterations of buildings and structures within the Floodway and Flood Fringe Districts.

Article XVI. Amendments

§ 250-138. Zoning ordinance amendments.

The Borough Council shall have final authority to enact by ordinance any zoning change application, amendment, supplement or repeal any of the regulations and provisions of this chapter and the Newport Borough Zoning Map. Any amendment, supplement, change or repeal may be proposed by the Planning Commission, or initiated by the Borough Council or petitioned by any interested party.

§ 250-139. Public hearing and procedures for zoning amendments.

Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Borough Council shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comments. Such public hearing shall be conducted after public notice has been given. Public notice for a zoning amendment shall be provided as follows:

A. Notice shall be published once each week for two successive weeks in a newspaper of general circulation in the Borough. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days, and the second publication shall not be less than seven days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary setting forth all the provisions in reasonable detail. If the full text is not included, the full text may be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.

B. Notice.

(1) In Zoning Map amendments, the notice of public hearing shall also be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter

of the tract to notify potentially interested citizens. The affected tract shall be posted at least one week prior to the date of the hearing.

(2) Mailing notice to rezoned properties.[Added 1-8-2013 by Ord. No. 348]

(a) In addition to the requirement that notice be posted under Subsection B(1), where the proposed amendment involves a Zoning Map change, notice of the public hearing shall be mailed by the municipality at least 30 days prior to the date of the hearing by first-class mail to the addressees to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

(b) This subsection shall not apply when the rezoning constitutes a comprehensive rezoning.

C. For curative amendments, public notice shall also indicate that the validity of the ordinance and/or map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.

D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially or is revised to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment. If the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Borough at points deemed sufficient by the Borough along the perimeter of the tract to notify potentially interested citizens. The affected tract shall be posted at least one week prior to the date of the public hearing.

§ 250-140. Enactment notice; publication, advertisement and availability of ordinances.

A. In addition to the public notice requirements for a public hearing defined herein, the Borough Council shall publish a reference to the time and place of the meeting at which passage of the Zoning Ordinance amendment will occur.

B. Proposed zoning ordinances and amendments shall not be enacted unless notice of proposed enactment is given in the manner set forth in this section and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the Borough where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The Borough Council shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the Borough not more than 60 days nor less than seven days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough Solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the Borough at the time the public notice is published.

(2) An attested copy of the proposed ordinance shall be filed in the Perry County Law Library or other county office designated by the County Commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

C. In the event substantial amendments are made in the proposed ordinance or amendment, before voting on enactment, the Borough Council shall, at least 10 days prior to enactment, re-advertise, in one newspaper of general circulation in the Borough, a brief summary setting forth all provisions in reasonable detail together with a summary of amendments.

D. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effects as if duly recorded therein.

§ 250-141. Planning Commission comments.

A. When an amendment is proposed by parties other than the Planning Commission, the Borough Council shall submit each amendment to the Planning Commission for comments. The amendment application shall be submitted at least 30 days prior to the public hearing on such amendment.

B. A report of the review by the Planning Commission, together with any recommendations, may be given to the Borough Council within 30 days from the date the amendments were received. The recommendation of the Council may include a specific statement as to whether the proposed action is consistent with the intent of the ordinance and the Borough's officially adopted Comprehensive Plan.

§ 250-142. Perry County Planning Commission comments.

A. At least 30 days prior to the hearing on the ordinance amendment by the Borough Council, the Borough shall submit the proposed ordinance or amendments to the Perry County Planning Commission for recommendations.

B. Within 30 days after enactment, a copy of the zoning amendment shall be forwarded to the Perry County Planning Commission. Amendment procedures shall be in compliance with § 609 of the MPC. Editor's Note: See 53 P.S. § 10609.

§ 250-143. Amendments initiated by Borough Council.

When an amendment, supplement, change or repeal is initiated by the Borough Council, such amendment shall be in compliance with § 609 of the MPC. Editor's Note: See 53 P.S. § 10609.

§ 250-144. Amendments proposed by Planning Commission.

When an amendment, supplement, change or repeal is initiated by the Planning Commission, proposal shall be presented to the Borough Council, which shall then proceed with the amendment process.

§ 250-145. Amendments petitioned by an interested party.

A petition for amendment or repeal for a portion of this chapter shall include an accurate legal description and surveyed plan of any land to be rezoned and/or text amended, and a narrative describing all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and correctness of all facts and information presented in the petition. A fee to be established by the Borough Council shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Borough Council may require duplicate sets of petition materials.

§ 250-146. Enactment.

Within 30 days after enactment, a copy of the amendment to the Zoning Ordinance shall be forwarded to the Perry County Planning Commission office at P.O. Box 37, New Bloomfield, PA 17068.

§ 250-147. Procedure upon curative amendments.

The procedure upon curative amendments shall be in accordance with the requirements of § 609.1 and § 609.2 of the MPC. Editor's Note: See 53 P.S. §§ 10609.1 and 10609.2, respectively.

Article XVII. Administration and Enforcement

§ 250-148. Zoning Hearing Board.

Borough Council shall appoint a Zoning Hearing Board, which shall have the number of members, such duties, powers, jurisdiction and authority as set forth in Article IX of the Pennsylvania Municipalities Planning Code (Act 247 of 1968), as enacted or amended. Editor's Note: See 53 P.S. § 10901 et seq. The duly established Zoning Hearing Board shall have the following functions:

A. Hearings. The Board shall conduct hearings and make decisions in accordance with § 908 of the Pennsylvania Municipalities Planning Code, as amended. Editor's Note: See 53 P.S. § 10908. Notice shall be given to the public, the applicant, the Zoning Officer and any person who has made timely request for same. Notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. Notice shall be conspicuously posted on the affected tract of land, at least one week prior to the hearing.

B. Variances.

(1) The Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board shall by rule prescribe the form of application and require preliminary application to the Zoning

Officer. The Board may grant a variance, provided the following findings are made where relevant in a given case:

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

(c) That such unnecessary hardship has not been created by the appellant.

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located or substantially or permanently impair the appropriate use or development of adjacent property or be detrimental to the public welfare.

(e) That the variance, if authorized, will represent the minimum variance which will afford relief and represent the least possible modification of the regulation in issue.

(2) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and of the Municipalities Planning Code (Act 247 of 1968). Editor's Note: See 53 P.S. § 10101 et seq.

C. Special exceptions. Special exceptions may be granted or denied by the Board pursuant to expressed standards criteria set forth in this chapter. The Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and of Act 247 of 1968. Editor's Note: See 53 P.S. § 10101 et seq. The Board shall pursue the following procedure:

(1) The Board's decision to grant a permit for special exception use shall be made only after public notice and hearing. Such permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions shall be subject to the provisions of this section.

(2) No permit shall be granted by the Zoning Hearing Board for any special exception use until said Board has first received and considered an advisory report thereon from the Planning Commission with respect to the location of such use in relation to the needs and growth pattern of the Borough, and, where appropriate, with reference to the adequacy of the site area and the arrangement of buildings, driveways, parking areas, off-street truck loading spaces and other pertinent features of the site plan. The Planning Commission shall have 30 days; such application shall be deemed to have been

approved by said Planning Commission if no advisory report has been submitted to the Zoning Hearing Board within this thirty-day period. The Planning Commission may have representation at the public hearing held by the Zoning Hearing Board on such application. After receipt of the report, the Zoning Hearing Board shall hear and decide the application in the same manner and under the same procedure as required by law and ordinance.[Amended 1-8-2013 by Ord. No. 348]

(3) A special exception use for which a permit is granted by the Zoning Hearing Board pursuant to the provisions of this section shall constitute a conforming use.

D. Time limitations. The time limitations for raising issues and filing proceedings with the Board shall be governed by the provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968). Editor's Note: See 53 P.S. § 10101 et seq. E. Membership.

(1) The membership of the Zoning Hearing Board shall, upon the determination of the Newport Borough Council, consist of either three or five members of the Borough, as appointed by resolution by the Newport Borough Council. The terms of office for a three-year board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five-member board shall be five years and shall be so fixed that the term of office of one member expires each year. If a three-member board is changed to a five-member board, the members of the existing three-member board shall continue in office until their term of office would expire under prior law. Borough Council shall appoint two additional members to the Board with terms scheduled to expire in accordance with the provisions of this section.

(2) The Board shall promptly notify the Borough Council of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other elected or appointed office in the Borough, nor shall any member be an employee of the Borough.[Amended 1-8-2013 by Ord. No. 348]

(a) The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board.

(3) Borough Council may appoint by resolution no more than three alternates to the Zoning Hearing Board as set forth under Section 903 of the Municipalities Planning Code (53 P.S. § 10903).[Added 1-8-2013 by Ord. No. 348]

F. Effect of Zoning Hearing Board's decision.

(1) If the variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and authorized action begun within two years after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within three years of said date. For good cause, the Zoning

Hearing Board may at any time, upon application in writing, extend either of these deadlines.

(2) Should the appellant or applicant fail to obtain the necessary permits within said two-year period, or having obtained the permit, should fail to commence work thereunder within such two-year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Zoning Hearing Board.

(3) Should the appellant or applicant commence construction or alteration within said two-year period, but should he fail to complete such construction or alteration within said three-year period, the Zoning Hearing Board may, upon 10 days notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such three-year period, and if the Zoning Hearing Board further finds that conditions have so altered or change in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.

(4) As an alternative to the preceding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in Subsection F(1) through (3). In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Zoning Hearing Board must establish and bind a definite time frame for: issuance of a zoning permit; and completion of construction of the project.

§ 250-149. Zoning appeals to court.

The procedure to be followed in filing appeals to the courts shall be in accordance with the Pennsylvania Municipalities Planning Code (Act 247 of 1968), as amended. Editor's Note: See 53 P.S. § 10101 et seq.

§ 250-150. Enforcement officer.

It shall be the duty of the Zoning Officer, and he is hereby given the necessary power and authority to enforce the provisions of this chapter. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits with accompanying plans and documents, and make such reports as Borough Council may require. Permits for construction and uses which are a special exception or a variance to requirements of this chapter shall be issued only upon written order of the Zoning Hearing Board.

§ 250-151. Permits.

A. Requirement of permits.

(1) A building and/or zoning permit shall be required prior to the erection, addition or alteration of any building or structure or portion thereof, prior to the use or change in the use of a building or land, and prior to the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or for a change in land use, until a permit has been duly issued therefor. No zoning permit shall be required in cases of normal maintenance, minor repairs and alterations which do not structurally change a building or structure.

(2) A building permit must be obtained from the Zoning Officer for activities including, but not limited to, the construction alteration, demolition or relocation of any structure. A building permit is also required for improvements which cause an assessment increase, such as:

- (a) Change from single-family to multiple-family use.
- (b) New basement or recreation room.
- (c) New rooms finished in attic or basement.
- (d) Any change resulting in larger building, porches, patios, carports, garages, etc.
- (e) Extra storage, bathroom, porches where none existed.
- (f) Placement or exchange of new or existing mobile homes.
- (g) Any additions to existing building.
- (h) New construction: residential, commercial, etc.
- (i) Fences.
- (j) Paving parking areas.

B. Uses exempt from permits. A building permit is not required for home maintenance such as:

- (1) Reappointing, repairing and replacing of existing masonry.
- (2) Replacing existing plumbing and light fixtures.
- (3) Wiring modernization.
- (4) Added electrical outlets.
- (5) Outdoor electrical cable and outdoor lights.
- (6) Landscaping.
- (7) New roof or siding.
- (8) Outside and inside painting.
- (9) Repair of porches, steps and/or sidewalks.
- (10) Exterior awnings.

C. Applications from permits. All applications for permits shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building, the number of families or dwelling units the building is designed to accommodate, and such other information as may be necessary to determine compliance with this chapter and all other pertinent ordinances. One copy of the plans shall be returned to the owner when the plans are approved by the Zoning Officer or other appropriate person or body. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

D. Issuance of permits. No permit shall be issued until the Zoning Official has certified that the proposed building, addition or alteration complies with all the provisions of this chapter, as well as with all the provisions of any existing or hereafter enacted building permit ordinance or other ordinance or provision thereof pertaining to building permits. A permit issued hereunder shall become void 12 months after the issuance date.

E. All applications for building and zoning permits for industrial (other than single-family dwellings), commercial and industrial construction shall be submitted to the Zoning Officer, who shall have the option of submitting such applications to the Planning Commission or to Borough Council for recommendations prior to issuing a permit. Building and zoning permits as aforesaid shall be issued only after review and approval of the Plan Review Board in accordance with the procedures and requirements set forth in the resolution creating the same. The requirements of this § 250-151 shall be applicable in each and every zoning district, whether or not specifically set forth therein.

§ 250-152. Conditional uses.

Applications for any conditional uses specified in this chapter shall be made to the Zoning Officer, who, at least 20 days before the next regularly scheduled meeting of the Planning Commission, shall refer such application to the Chairman of the Planning Commission, and give written notice of the hearing date to all property owners within 500 feet of the property for which application has been made. The Planning Commission shall review the application pursuant to the conditions, standards and criteria set forth in this § 250-152, and shall submit its recommendations to Borough Council for approval or denial. The following general standards and findings shall be used as guidelines by the Planning Commission and Borough Council in acting upon conditional use applications:

A. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

B. That the conditional use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and to facilitate the circulation and movement of pedestrian and vehicular traffic.

E. That adequate utility services and facilities such as sanitary and storm sewers, water, trash and garbage collection and disposal, access roads and other necessary facilities have been or are being provided.

F. That the intended purpose of the proposed use is not inconsistent with the planning policies of the Borough, as reflected in the Comprehensive Plan and in this chapter.

§ 250-153. Special exceptions.

Applications for any special exception specified in this chapter shall be made to the Zoning Hearing Board through the Zoning Officer. The Zoning Hearing Board shall refer the matter to the Planning Commission or a report thereon, but shall not be bound thereby. The general standards and findings set forth in Article XI of this chapter, and any other conditions, standards and criteria set forth in this chapter, shall be used as guidelines by the Planning Commission in making its report, and by the Zoning Hearing Board in acting upon the application for special exception.

§ 250-154. Fees.

[Amended 3-6-2007 by Ord. No. 328] Fees for zoning permits, certification of nonconformance, appeals and applications to the Zoning Hearing Board, changes or amendment in the Zoning Ordinance and/or Zoning Map, statement of classification or compliance, and certificate of use, shall each be as set from time to time by a resolution of Borough Council. All fees shall be paid at the Borough Office at the time of the appeal, application or request. No permit, appeal, certificate or other requested action shall be issued granted, heard or undertaken until the appropriate fee has been paid.

§ 250-155. Inspection.

It shall be the duty of the Zoning Officer or his duly appointed representative to make the following minimum number of inspections of property for which a permit has been issued:

A. At the beginning of construction, a record shall be made indicating the time and date of the inspection and the findings in regard to conformance of the construction with plans submitted with the application for the building or other permit. If the actual construction does not conform to the application, a written notice of a violation shall be issued by the Zoning Officer, or his duly appointed representative, and construction shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, or his duly appointed representative, construction may proceed.

B. At the completion of construction, a record shall be made indicating the time and date of the inspection, and the findings of the Zoning Officer or his duly appointed representative in regard to the issuance of a certificate of use.

§ 250-156. Certificate of use.

A. A certificate of use shall be a written statement issued by the Zoning Officer, or his duly appointed representative, setting forth either that a building, structure or parcel of land complies with the provisions of this chapter, or that a building or structure lawfully may be employed for specified uses under the provisions of this chapter, or both.

B. No vacant land shall be occupied, used or changed in use and no building or structure or part of a building or structure, hereafter erected or structurally altered, shall be occupied, used or changed in use, until a certificate of use shall have been regularly issued therefor by the Zoning Officer, or his duly appointed representative.

C. A certificate of use, either for the whole or for a part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building permit and shall be issued within 15 days after the erection or alteration of such building or part shall have been complied in conformity with the provisions of this chapter.

D. A certificate of use for the use or occupancy of vacant land or for a change in the use of the land, or for a change in the use of an existing building, shall be applied for and issued before any such land shall be occupied or used, or such land or building changed in use, and shall be issued within 15 days after application has been made, provided such proposed use is in conformity with the provisions of this chapter.

E. A certificate of use for changing or extending a nonconforming use shall be applied for and issued before any such nonconforming use shall be changed or extended. Such certificate shall be issued within 15 days after application has been made, provided such proposed change or extension is in conformity with the provisions of this chapter.

F. A record of all certificates of use shall be kept on file in the office of the Zoning Officer or his duly appointed representative, and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

§ 250-157. Enforcement.

A. Failure to comply with any provision of this chapter, failure to secure any required permit or Zoning Hearing Board certificate or approval prior to the erection, construction, extension or addition to a building, and failure to secure a certificate of use permit, shall be violations of this chapter. When written notice of a violation of any of the provisions of this chapter has been served by the Zoning Officer, or his duly appointed representative, on the owner, agent, occupancy, contractor or is posted on the building, such violation shall be discontinued immediately.

B. If it appears to the Borough that a violation of this chapter enacted under the Act or prior enabling laws has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in the following:

- (1) The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive

enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

(2) An enforcement notice shall state at least the following:

- (a) The name of the owner of record and/or any other person against whom the Township intends to take action.
- (b) The location of the property in violation.
- (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.
- (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
- (e) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the ordinance.
- (f) That failure to comply with the notice within the time specified unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

(3) In any appeal of an enforcement notice to the Zoning Hearing Board, the Borough shall have the responsibility of presenting its evidence first.[Added 1-8-2013 by Ord. No. 348]

(4) Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Borough if the Zoning Hearing Board or any court in a subsequent appeal rules in the appealing party's favor.[Added 1-8-2013 by Ord. No. 348]

§ 250-158. Violations and penalties.

It shall be unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of any provision of this chapter or any duly enacted amendment thereto. Any person, partnership, association or corporation who or which shall violate any provision of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$500, plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall be commenced or imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation is continued shall constitute a separate offense, unless the Magisterial District Judge, determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating the chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District

Judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees shall be paid over to the Borough of Newport.

§ 250-159. Remedies.

In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, or any duly enacted amendment hereof, Borough Council or, with the approval of Borough Council, any officer of the Borough may, in addition to any other remedies provided by law, institute in the name of the Borough any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent in or about such premises any act, conduct, business or use constituting a violation.

§ 250-160. Appeals and applications.

An appeal or application for a special exception or variance from the terms of this chapter may be filed with the Zoning Officer or his duly appointed representative, and shall state:

- A. The name and address of the applicant.
- B. The name and address of the owner of the real estate to be affected by such appeal or application.
- C. A brief description and location of the real estate to be affected by such appeal or application.
- D. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
- E. A statement of the section of this chapter under which the relief requested may be allowed and the reasons it should be granted.
- F. A reasonably accurate description of the present improvements, and the additions intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, which plan shall indicate the location and size of the lot, the size of the improvements now existing and proposed to be erected thereon and any other information required to be shown on plot plans accompanying applications for building permits.

§ 250-161. Interpretation, purpose and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the health, safety, morals and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this chapter imposes a greater restriction upon the use of buildings or premises, or upon the height of a building, or requires larger open spaces than are imposed by such other rules, easements, covenants, restrictions, regulations or ordinances, the provisions of this chapter shall control.