



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

10/08/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newberg Plan Amendment  
DLCD File Number 001-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, October 18, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Barton Brierley, City of Newberg  
Gordon Howard, DLCD Urban Planning Specialist  
Angela Lazarean, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within 20-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	OCT 01 2013
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **City of Newberg**

Local file number: **DCA-12-002**

Date of Adoption: **9/16/2013**

Date Mailed: **9/27/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 2/7/2013

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The amendment:

(1) modifies the list of permitted and conditional uses in each zone to a single table.

(2) groups many specific uses into categories of uses.

(3) provide definitions of terms.

The proposal is largely a reorganization of the current uses rather than making changes to what uses are or are not allowed in particular zones. The amendment does make a few changes in some of the uses to comply with state and federal laws, and to better meet the intent of each zone.

Does the Adoption differ from proposal? Yes, Please explain below:

The amendment allows Day Care uses as a conditional use in some industrial zones, plus a number of changes for clarity and formatting.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

DLCD File No. 001-13 (19694) [17627]



35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Barton Brierley**

Phone: (503) 537-1212 Extension:

Address: **P.O. Box 970**

Fax Number: **503-537-1272**

City: **Newberg, OR**

Zip: **97132-**

E-mail Address:

**barton.brierley@newbergoregon.gov**

## **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).



## ORDINANCE NO. 2013-2763

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### AN ORDINANCE AMENDING THE NEWBERG MUNICIPAL CODE ADOPTING A NEW ZONING USE TABLE

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#### RECITALS:

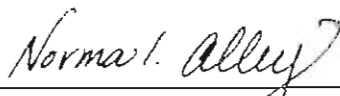
1. Newberg has had a zoning ordinance since the 1950s. The list of uses allowed in each zone is in need of update to reflect current uses, to better organize the uses, and to comply with several state laws.
2. The Newberg Planning Commission has recommended changes to modernize the zoning lists.
3. Organizing the uses into a single table would make the Development Code more useful by showing exactly which zones particular uses are allowed in.
4. Replacing the long lists of individual allowed uses with more general categories will help modernize the code and help to categorize uses that may not fit into a specific use definition.

#### THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

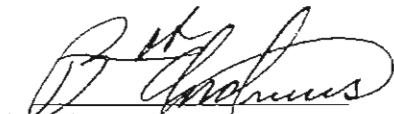
1. The Newberg Municipal Code is amended and attached as Exhibit "A," which is hereby adopted and by this reference incorporated.
2. The findings attached as Exhibit "B" are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: October 16, 2013.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of September, 2013, by the following votes: **AYE: 7**      **NAY: 0**      **ABSENT: 0**      **ABSTAIN: 0**

  
\_\_\_\_\_  
Norma I. Alley, MMC, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of September, 2013.

  
\_\_\_\_\_  
Bob Andrews, Mayor

## Newberg Zoning Use Table Development Code Amendments

**Note:** Added text is shown in double underline

Removed text is shown in ~~strikeout~~.

*Comments not part of the code are shown italicized in a box*

**SECTION 1: Repeal. The following sections of the Newberg Development Code shall be removed.**

15.225.070 Conditional uses permitted in any zoning district.

15.304 R-1 Low Density Residential District

15.306 R-2 Medium Density Residential District

15.308 R-3 High Density Residential District

15.309 R-4 Manufactured Dwelling District

15.310 RP Residential-Professional District

15.312 C-1 Neighborhood Commercial District

15.314 C-2 Community Commercial District

15.316 C-3 Central Business District

15.318 C-4 Riverfront Commercial District

15.320 M-1 Limited Industrial District

15.322 M-2 Light Industrial District

15.324 M-3 Heavy Industrial District

15.325 M-4 Large Lot Industrial District

15.328 I Institutional District

15.330 CF Community Facilities District

**SECTION 2: Definitions. The definitions in Newberg Development Code 15.05.030 shall be amended as follows:**

**Apartment House.** See ~~"dwelling, multiple."~~

**"Assisted living facility"** means a building, complex, or distinct part thereof, licensed as such by the State of Oregon, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents. Assisted living facilities are considered a type of multifamily dwelling.

**"Accessory building"** means any detached subordinate building the use of which is incidental, appropriate, and subordinate to that of the main building and separated from the main building by at least five feet. Buildings less than five feet from the main building shall be considered to be attached to the main building.

**"Accessory use"** means a use incidental and accessory to the primary use of the lot or a building located on the same lot.

**"Airport"** means a facility, either on land or water, where aircraft can take off and land, typically including hard-surfaced landing strips, a control tower, hangars, and accommodations for passengers and cargo.

**"Basic utilities"** means utilities that serve the needs of land uses in the immediate vicinity including wastewater and water lines, wastewater or water pump stations, water reservoirs, storm drains, stormwater retention or detention facilities, electric service substations, natural gas transmission lines, electric, telephone, and cable lines, and solar panels.

~~**"Bed and breakfast establishment"** means a structure designed and occupied as a residence in which sleeping rooms are provided on a daily or a weekly basis for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility.~~

**"Bed and breakfast establishment"** means a structure designed as a single-family dwelling and occupied by an on-site manager in which sleeping units are provided for periods of less than 30 days for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility.

**Caretaker dwelling.** See **"Dwelling, caretaker."**

~~**"Cemetery"** means land used or intended to be used for purposes including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.~~

**"Cemetery"** means a place:

1. Dedicated to and used, or intended to be used, for a permanent memorial or the permanent interment of human remains; and
2. That may contain a mausoleum, crypt or vault interment, a columbarium, an ossuary, a cenotaph, a scattering garden, any other structure or place used or intended to be used for the interment or disposition of human remains or any combination of these structures or places.

~~“Clinic” means single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths and other members of the healing arts, including a dispensary in each such building to handle only merchandise customarily prescribed by occupants in connection with their practices.~~

“College category” means a category of uses under NMC Chapter 15.303 that includes public and private schools that provide post-secondary education primarily for adults, usually working toward a degree or certificate.

“Community services category” means a category of uses under NMC Chapter 15.303 that are of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

“Commercial educational services category” means a category of uses under NMC Chapter 15.303 that includes educational services conducted in an office or studio setting and generally focusing on serving students with supplemental education, enrichment, and/or tutoring, where a fee is usually charged for services.

“Commercial recreation – indoor category” means a category of uses under NMC Chapter 15.303 that provide entertainment, recreation, and fitness activities for spectator or participants, within buildings. Fees usually are charged for admission or participation.

“Commercial recreation – outdoor category” means a category of uses under NMC Chapter 15.303 that provide entertainment, recreation, and fitness activities for spectators or participants outdoors. Fees usually are charged for admission or participation.

“Commercial recreation – motor vehicle related category” means a category of uses under NMC Chapter 15.303 that provide entertainment or recreation with motorized vehicles for spectators and/or participants.

“Commercial services category” means a category of uses under NMC Chapter 15.303 that provide services to the general public for compensation. Customers typically come to the site to receive the service. Items that are brought in and serviced are predominantly small, hand carried items. Outdoor storage of materials on site is

limited to small (under 400 square feet), fenced and screened areas. The establishments use passenger or light duty vehicles at the site; larger vehicles rarely visit the site. Operators may include government or non-profit organizations.

**"Commercial vehicle services category"** means a category of uses under NMC Chapter 15.303 that repair and service passenger vehicles, light duty vehicles and recreational vehicles for the general public. This includes fueling and washing services.

~~**"Conference center"** means a building or group of buildings operated primarily for the accommodation of people engaged in a group study project which may be known as "symposium," "seminary," "conference," "workshop," or "short course" and which may have such incidental uses as those customarily found in hotels to serve those engaged in such a project. Rentals of living accommodations within the building may be made available independent of any group study project.~~

**"Data center"** means a facility used to house computer systems and associated components, such as telecommunications and storage systems. Data centers are in the warehouse, storage, and distribution use category.

**"Day care category"** means a use category under NMC Chapter 15.303 that includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

~~**"Day nursery"** means an institution, establishment or place in which children are given board, care or training apart from their parents or guardians for compensation or reward, consistent with Oregon Department of Human Resources standards for day care facilities.~~

**"Dormitory"** means a living organization housing six or more unrelated people who share a common kitchen either on the site or elsewhere.

**"Dwelling-unit, accessory"** means one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit within or attached to an existing or new single-family dwelling.

**"Dwelling, caretaker"** means a dwelling provided on an industrial site for an employee or owner to provide around the clock surveillance or service for the industry.

**"Dwelling, single-family"** means a detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family.

**"Dwelling-unit, single-family attached"** means a single-family dwelling having one or more walls attached to and in common with one or more single-family dwellings, with each dwelling unit on a separate lot or parcel.



"Dwelling, mixed use" means a dwelling on a lot that has separate non-residential uses on the same lot, such as an apartment provided on a second floor of a commercial building. "Mixed-use dwelling" excludes a caretaker dwelling.

"Dwelling, multiple familymultifamily" means a building designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family. "Dwelling, multifamily" includes assisted living facilities.

"Dwelling, single-family detached" means a detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family.

"Dwelling, two-family (duplex)" means a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

"Emergency services category" means a category of uses under NMC Chapter 15.303 that with personnel or equipment staged for quick response in case of emergency. The facility is operated by a public agency or private franchise agency.

"Family child care home" means a registered or certified family child care home under the laws of the State of Oregon. A registered family child care home generally provides care for a maximum of 10 children in the family living quarters of the provider's home. A certified family care home is located in a building constructed as a single-family dwelling and has a certificate to care for a maximum of 16 children at any one time.

"Garage, repair" means a building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

"Golf course" means a large outdoor tract of land laid out for playing golf. "Golf course" may include a golf driving range or golf pro shop as accessory uses. "Golf course" excludes a miniature golf course.

"Group care facility" means an institution that maintains facilities for rendering of board and domiciliary care for compensation to physically, mentally or socially disabled persons or delinquent or dependent persons. Assisted living facilities are considered group care facilities. Group care facilities provide care for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents.

"Group care facility category" means a use category under NMC Chapter 15.303 that includes licensed facilities that provide residential care alone or in conjunction with treatment or training or a combination thereof for sixteen or more individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

~~"Group care home" means any dwelling unit maintained, licensed and operated for the care alone or in conjunction with treatment or training or a combination of treatment or training for physically, mentally or socially disabled persons or delinquent or dependent persons, by any person who is not the parent or guardian of and who is not related by blood, marriage or legal adoption to such persons. Group care homes shall provide care for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of home residents and need not be related to each other or to home residents. Consistent with the Fair Housing Act, group care homes which provide housing for disabled persons, including the aged, occupying a structure as one housekeeping unit shall be considered a single family use with densities governed by adopted city building codes.~~

~~"Heavy manufacturing" means a use that involves manufacturing, processing, fabrication, packaging, or assembly of large volumes of raw materials into refined products. These types of firms have significant external impacts. Outdoor storage and processing of goods and materials may exceed 10 percent of the site. Transportation needs are often met by both truck and rail. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).~~

"Heavy manufacturing category" means a category of uses under NMC Chapter 15.303 that involve manufacturing, processing, fabrication, packaging, or assembly of large volumes of raw materials into refined products. These types of firms have significant external impacts. Outdoor storage and processing of goods and materials may exceed 10 percent of the site. Transportation needs are often met by both truck and rail. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

"Helipad" means a transportation structure or area used for the landing and ascending of a helicopter, typically associated with a single use, such as a hospital.

"Heliport" means a facility used for the landing and ascending of helicopters, typically with a control tower, hangars, and accommodations for passengers and cargo.

"Home gardening" means the cultivation of flowers, fruits, vegetables, or ornamental plants for personal use of the owner or tenants of a lot. "Home gardening" includes community gardens where the space is provided without charge for the space to individuals to raise produce for their personal use, or for non-profit groups to raise produce to donate to individuals or charitable organizations.

"Home livestock and poultry raising" means the keeping and raising of livestock or poultry for the personal use of the owner or tenants of the lot.

"Home occupation" means an occupation or profession carried on by a member of the family residing on the premises.

"Horticulture" means the cultivation of a garden, orchard, or nursery, or the cultivation of flowers, fruits, vegetables, or ornamental plants for commercial purposes. It excludes farm stands or other on-site retail sale of the products.

~~"Hospitals" means institutions devoted primarily to the rendering of healing, curing and/or nursing care, which maintain and operate facilities for the diagnosis, treatment and care of two or more nonrelated individuals suffering from illness, injury or deformity or where obstetrical or other healing, curing and/or nursing care is rendered over a period exceeding 24 hours.~~

"Hospital category" means a use category under NMC Chapter 15.303 that includes medical institutions that provide medical and surgical care to patients on an inpatient or emergency basis, which may be in addition to outpatient care.

~~"Hotel," "motel," "motor hotel," or "tourist court" means a building or group of buildings used for transient residential purposes containing six or more guest rooms without housekeeping facilities (not including kitchenettes) which are designed to be used, or which are used, rented or hired out for sleeping purposes.~~

"Hotel" or "motel" means a structure with sleeping units or dwelling units rented or occupied for periods of less than 30 days, excluding vacation rental homes and bed and breakfast establishments.

~~"Industrial service" means a use that involves repairing or servicing of industrial, business or consumer machinery, equipment, products or by-products. Few customers, especially the general public, come to the site (typically fewer than five per day per 1,000 square feet of floor area). Examples include welding shops; machine shops; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; building contractors; printing; exterminators; recycling operations; janitorial and building maintenance services; research and development laboratories; and photofinishing laboratories. This does not include truck stops.~~

"Industrial services category" means a category of uses under NMC Chapter 15.303 that provide services to other businesses or industries. Services often are provided off site at the customer location. Services to the general public are allowed, but general public visits to the site are infrequent. Items to be serviced may be brought in and out by truck, trailer or forklift. Materials may be stored in warehouses, or outside in enclosed areas. Trailers and medium or heavy duty vehicles may be used and stored on site.

~~"Kennel" means a lot or premises on which three or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation. An "adult dog" is one that has reached the age of four months.~~

"Kennel, commercial" means a lot or premises for the boarding, training, or breeding of dogs or cats for compensation, and where four or more of such adult animals are kept. An adult dog or cat is one that has reached the age of six months. "Commercial kennel" excludes pounds, pet stores (general retail sales), small animal hospitals, and hobby kennels.

**"Kennel, hobby"** means an accessory use to a single-family dwelling unit where four or more adult dogs are kept by the resident for their own use and enjoyment without compensation. An adult dog is one that has reached the age of six months.

**"Landing field"** means a facility, either on land or water, where aircraft can take off and land, typically excluding hard surfacing, control towers, hangars, or accommodations for passengers and cargo. See also **"airport."**

~~**"Light manufacturing"** means a use that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).~~

**"Light manufacturing category"** means a category of uses under NMC Chapter 15.303 that involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

**"Livestock and poultry farming"** means the keeping and raising of livestock or poultry for commercial purposes.

**"Local business office category"** means a category of office uses under NMC Chapter 15.303 that serve the local area. General public visits to the office may be frequent. There is little or no outdoor storage of equipment and materials. Vehicles regularly on site are limited to passenger and light duty vehicles. No manufacturing occurs on site. Materials on site are mostly hand carried.

**"Manufactured dwelling park"** means any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. **"Manufactured dwelling park"** does not include a manufactured home subdivision.

**"Manufactured home"** means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

**"Manufactured home subdivision"** means a subdivision where the use of lots is limited to one manufactured home per lot or uses accessory to the home or the subdivision.

**"Marina"** means a boat basin offering dockage and other service for small watercraft, including marine gas facilities, boat launching, and moorage.

**"Medical office category"** means a category of uses under NMC Chapter 15.303 that provide medical or surgical care to patients within the office. Care is provided by or under the direction of a government licensed medical practitioner. Services are provided on an outpatient basis only. Regular office hours are during the day with only occasional night time emergency care.

**"Mobile home park"** means any place where four or more manufactured structures are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

**"Open space category"** means a category of uses under NMC Chapter 15.303 that provide outdoor space for natural feature preservation, or for walking, sitting, watching, or observing. Most of the area is left in native vegetation. Open spaces may be publicly or privately owned, and public access may be restricted or prohibited.

**"Park category"** means a category of uses under NMC Chapter 15.303 that provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

**"Parking facility"** means parking spaces that are not designated for use by those patronizing a specific use on-site or a nearby site. This includes publicly owned parking lots designated for use by the general public, commercial parking lots open to the general public where a fee is charged to park, and park and ride lots.

**"Personal services category"** means a category of uses under NMC Chapter 15.303 that are engaged primarily in physical aesthetic services or non-medical treatment to individuals at the site.

**"Pound, dog or cat"** means premises where animals are impounded temporarily while their owners are being located or while awaiting adoption or final disposition.

**"Prison"** means a facility that lodges person being legally detained. It excludes jails associated with a police station that provide short-term detention, which is considered an accessory to an emergency service use.



**"Private club, lodge, meeting hall"** means a category of uses under NMC Chapter 15.303 that provide meeting areas that are restricted to those with membership in the host organization, or to individuals or organizations renting the space for special events. The activities may either be religious or non-religious. The activities may be non-profit or for profit, though for-profit activities are limited to those with membership or prospective membership in the organization renting the space.

**"Recreational vehicle park" or "RV park":**

1. Means a place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose:

- a. The renting of space and related facilities for a charge or fee; or
- b. The provision of space for free in connection with securing the patronage of a person.

2. Does not mean:

- a. An area designated only for picnicking or overnight camping; or
- b. A manufactured dwelling park or mobile home park.

**"Religious institution, place of worship category"** means a category of uses under NMC Chapter 15.303 that primarily provide meeting areas for religious activities.

**"Residential care home"** means a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential care home.

**"Residential care facility"** means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential care facility.

**"Retail food and beverage production category"** means a category of uses under NMC Chapter 15.303 that prepare and package food and beverages for retail sale or consumption on site, and for shipment for sales at other locations. These are medium sized operations, using 10,000 square feet or less of floor for production. The area on site devoted to retail sales and dining is at least 25 percent of the floor area.

**"Retail sales – general category"** means a category of uses under NMC Chapter 15.303 that sell or rent goods to the general public. Items are sold indoors, or, if

outdoors, are limited to small items that don't require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or non-profit entities.

**"Retail sales – bulk outdoor category"** means a category of uses under NMC Chapter 15.303 that sell or rent large items to the general public from stock displayed or stored in whole or in part outdoors. Large items include vehicles and materials that require forklifts, tow trucks, or other loading equipment to load to customers. Sales may include sale of other items indoors or outdoors.

**Retail sales - convenience category"** means a category of uses under NMC Chapter 15.303 that sell items to the general public that mostly are used or consumed the same day. Store size is limited to a specific floor area established by the zoning district. Items are sold predominantly indoors.

**"Secondhand store"** means a retail shop where all or nearly all goods sold are previously used household items. "Secondhand store" excludes used vehicle sales.

~~**"Self-service storage"** means a structure that provides separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.~~

**"Self-service storage category"** means a category of uses under NMC Chapter 15.303 that provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.

~~**"Service station or gas station"** means a place or station selling motor fuel and oil for motor vehicles; selling, servicing and installing tires, batteries, accessories and related products; furnishing minor repair and service when conducted entirely within an enclosed building; and at which incidental services are conducted. "Service station or gas station" often includes the sale of other retail products such as food and snacks and the provision of a car wash. "Minor repair service," as used in this definition, shall be understood to exclude activities such as painting, body work, steam cleaning, tire recapping, major engine or transmission overhaul, or repair involving removal of a cylinder head or crankcase, and mechanical car washing which necessitates equipment to wash more than one car at a time.~~

**"School, primary or secondary category"** means a category of uses under NMC Chapter 15.303 that includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors.

**"Telecommunications facility"** means a land use which generates, detects or processes radio frequency (RF) energy for purposes of wireless telecommunication and which provides commercial transmission capabilities to convey intelligence such as voice, digital data, still or moving pictures. Services include cellular communication, personal communication services (PS), enhanced specialized mobile radio, specialized mobile radio and paging. The facility may include a cellular tower or monopole; antennas; feedlines; structures to support antennas, feedlines, and other receiving

and/or transmitting devices; transmitters, receivers and transceivers; accessory equipment, development and structures; and the land on which they are situated. This definition does not include amateur radio and citizen band radio equipment (see **"amateur ("ham") radio"** and **"citizen band (CB) radio"**).

**"Temporary merchant"** means a person or persons occupying a temporary, fixed location, not within a permanent building, and selling or delivering from stock on hand, doing business in much the same manner as a permanent business.

**"Traded sector industry office category"** means a category of uses under NMC Chapter 15.303 that includes corporate offices for traded-sector industries that design, research, or create a product where the manufacturing is done at a different facility, or the product is intangible or intellectual. It may include offices for management of corporations or sales of products where the primary market is beyond the local region. General public visits to the office are very infrequent.

**"Transit center"** means a location for the boarding or departing of passengers from buses, trains, taxis or similar common passenger carriers (excluding aircraft), typically for several fixed routes. **"Transit center"** may include accessories such as multiple shelters, rest rooms, food vending, parking lots, offices for transit personnel, and transit vehicle storage and repair areas.

**"Transportation facilities and improvements"** means the physical improvements used to move people and goods from one place to another. "Transportation facilities and improvements" includes the following:

1. Construction of streets, walkways, and associated improvements as part of an approved subdivision, partition, design review, or similar application.
2. Projects identified in the city's adopted transportation system plan.
3. Installation of culverts, pathways, medians, fencing, guardrails, walls, lighting, and similar types of improvements.
4. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
5. Landscaping as part of a transportation facility.
6. Transit stops.

**"Utility distribution plant or yard"** means a facility that collect, distribute, or treat water, storm drainage, electrical power, natural gas, or similar material to serve areas beyond the immediate vicinity. It includes facilities that store and distribute equipment and material to repair streets and utilities. **"Utility distribution plants and yards"** include water treatment plants, street maintenance yards, and energy production facilities using material imported to the site. It excludes basic utilities and wastewater treatment plants.

**"Vacation rental home"** means a single-family dwelling unit that is used, rented or occupied for periods of less than 30 days, or is available, advertised, or listed by an

agent as available for use, rent for occupancy for periods of less than 30 days.  
"Vacation rental home" excludes bed and breakfast establishments.

"Vehicle, heavy duty" means a Class 7 or Class 8 vehicle under the US DOT Federal Highway Administration (FHWA) Vehicle Inventory and Use Survey (VIUS) standards, which has a gross vehicle weight rating of greater than 26,000 pounds.

"Vehicle, light duty" means a Class 1, 2, or 3 vehicle under the US DOT Federal Highway Administration (FHWA) Vehicle Inventory and Use Survey (VIUS) standards, which has a gross vehicle weight rating of 14,000 pounds or less.

"Vehicle, medium duty" means a Class 4, 5, or 6 vehicle under the US DOT Federal Highway Administration (FHWA) Vehicle Inventory and Use Survey (VIUS) standards, which has a gross vehicle weight rating of greater than 14,000 pounds but less than or equal to 26,000 pounds.

"Vehicle repair" means firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. Examples include transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting. Vehicle towing, storage, wrecking and salvage are classified as industrial service. This does not include truck stops.

"Warehouse and distribution" means a use that involves storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will call pickups. There is little on-site sales activity with the customer present. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; trucking and bus yards; and wholesale distribution centers and cold storage for food or agricultural products.

"Warehouse, storage and distribution category" means a category of uses under NMC Chapter 15.303 that involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

"Wastewater treatment plant" means a facility for treatment and disposal of human waste collected from a large area. It excludes wastewater pump stations and septic systems.

"Waste-related" means a use that is characterized by receiving solid or liquid wastes from others for disposal on the site or for transfer to another location, including uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340-100-110, Hazardous Waste Management. Examples include sanitary landfills, recycling facilities, limited use landfills, waste composting, energy recovery plants, wastewater

~~treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.~~

**"Waste-related category"** means a category of uses under NMC Chapter 15.303 that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, collect sanitary wastes, or manufacture or produce goods or energy from the biological decomposition of organic material. Waste-related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340-100-110, Hazardous Waste Management.

**"Wholesale and industry sales category"** means a category of uses under NMC Chapter 15.303 that sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

~~**"Wholesale sales"** means a use that involves selling, leasing, or renting products intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may not be open to the general public. Products may be picked up on site or delivered to the customer. Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.~~

**SECTION 3: The following shall be added as Newberg Development Code Section 15.225.110**

**15.225.110 Pre-existing uses now listed as a conditional use**

Where a use is legally established and continuing, but that use currently would require a conditional use permit, the use shall be considered as having a conditional use permit under the terms of the prior permit approval. Any nonconforming site development shall be subject to the provisions of Chapter 15.205.



**SECTION 4: The following shall be added as Newberg Development Code Section 15.302.032**

**15.302.032: Purposes of Each Zoning District**

**A. R-1 Low Density Residential District**

1. The purpose of this land use designation is to provide for low density urban single-family residential uses at an average overall density of 4.4 units per gross buildable acre in the district. It is intended to provide a stable and healthful environment together with the full range of urban services.

2. Typical housing types will include single-family dwellings and planned unit developments. The district also is intended to allow low intensity institutional uses that operate consistent with peaceful enjoyment of residential neighborhoods. The R-1 district is intended to be consistent with the low density residential (LDR) designation of the comprehensive plan.

**B. R-2 Medium Density Residential District**

1. The purpose of this land use designation is to provide a wide range of dwelling types and styles at an average overall density of 9 units per gross buildable acre in the district.

2. Typical housing types will include single-family dwellings on small lots, attached single-family, duplex or multifamily dwellings, and manufactured dwelling parks. The district also is intended to allow low intensity institutional uses that operate consistent with peaceful enjoyment of residential neighborhoods. The R-2 district is intended to be consistent with the medium density residential (MDR) designation of the comprehensive plan.

**C. R-3 High Density Residential District**

1. The purpose of this land use designation is to provide multifamily dwellings of different types and styles at an average overall density of 16.5 units per gross buildable acre in the district.

2. Typical housing types will include duplexes, multifamily dwellings, and manufactured dwelling and mobile home parks. The district also is intended to allow low intensity institutional uses that operate consistent with peaceful enjoyment of residential neighborhoods. Density may vary depending on lot size, off-street parking area, transportation, landscaping and other site considerations. The R-3 district is intended to be consistent with the high density residential (HDR) designation of the comprehensive plan.

D. R-4 Manufactured Dwelling District

1. The purpose of this land use designation is to provide locations reserved for manufactured homes, manufactured dwelling parks, mobile home parks, manufactured home subdivisions, and related uses.

2. This district allows manufactured homes, mobile home parks, or manufactured home subdivisions at a density of up to 12 units per gross buildable acre. The R-4 district is intended to be consistent with the medium density residential (MDR) or high density residential (HDR) designation of the comprehensive plan.

E. RP Residential-Professional District. The RP residential-professional district provides for a desirable mixing of residential land uses with medical and local business office uses in possible close proximity to adjacent residential areas. The office building and parking coverage, traffic generation, open space and other external factors are intended to be compatible with the residential uses permitted. This district may be appropriate in transition areas between major land uses as indicated in the adopted plan. The RP district is intended to be consistent with commercial or residential designations on the Newberg comprehensive plan. RP districts shall be located as to conform to goals and policies identified within the Newberg comprehensive plan and in areas which have a minimal impact on the livability or appropriate development of abutting property.

F. C-1 Neighborhood Commercial District. The C-1 neighborhood commercial district is intended to create, preserve and enhance areas of retail establishments serving frequently recurring needs in convenient locations. It is typically appropriate for small convenience stores or neighborhood shopping centers located within residential neighborhoods. The C-1 district is intended to be consistent with the commercial (COM) designation of the comprehensive plan.

G. C-2 Community Commercial District. The C-2 community commercial district is intended to create, preserve and enhance areas with a wide range of retail sales, commercial services, and office establishments. Typical development types include individual commercial buildings on small and large sites, community shopping centers, and some outdoor retail uses. This district is typically located along highways and arterials. This district also includes some development which does not strictly fit the description of "commercial" but also does not merit a separate zoning district. The C-2 district is intended to be consistent with the commercial (COM) and mixed use (MIX) designations of the comprehensive plan.

H. C-3 Central Business District. The C-3 central business district is intended to preserve and enhance areas within which the greatest possible concentration of retail sales and business will occur. The district will be applied to the "core" area based upon the guidelines established in the comprehensive plan. The buildings and uses permitted reflect the desire to have parking provided on a district-wide basis rather than having

each individual building or use provide parking. The C-3 district is intended to be consistent with the commercial (COM) designation of the comprehensive plan.

I. C-4 Riverfront Commercial District

1. The purpose of the C-4 riverfront commercial district is to allow a mix of uses that:

a. Provides a variety of retail and commercial service type uses that benefit from proximity to the river.

b. Encourages access to and enjoyment of the Willamette River.

c. Ensures compatibility of development with the surrounding area and minimizes impacts on the environment.

2. Properties zoned in this district must comply with the development standards of the riverfront subdistrict, as described in NMC 15.352.010 through 15.352.050.

3. The C-4 district is intended to be consistent with the commercial/riverfront district (COM/RD) designation of the comprehensive plan.

J. M-1 Limited Industrial District. The M-1 limited industrial district is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 limited industrial district is typically appropriate to locations near highways and arterials and nonmanufacturing areas. The M-1 district is intended to be consistent with the industrial (IND) and mixed use (MIX) designations of the comprehensive plan.

K. M-2 Light Industrial District. The M-2 light industrial district is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The M-2 district is intended to be consistent with the industrial (IND) designation of the comprehensive plan.

L. M-3 Heavy Industrial District. The M-3 heavy industrial district is intended to create, preserve and enhance areas containing manufacturing or related establishments which are potentially incompatible with most other establishments and are typically appropriate to areas which are most distant from residential areas, and which have extensive rail or shipping facilities. The M-3 district is intended to be consistent with the industrial (IND) designation of the comprehensive plan.

M. M-4 Large Lot Industrial District. The M-4 industrial employment district is divided into two subdistricts: the industrial employment subdistrict and the industrial commercial subdistrict. One of the main intents of these districts is to provide a variety of employment opportunities for the citizens of Newberg. Providing adequate jobs for our citizens leads to other related benefits, including a diversified and stable local economy, a stronger tax base, and environmental benefits from less out-commuting to jobs. In addition, providing adequate local jobs helps fulfill the stated desire of many citizens to "live here, work here, shop here." The M-4 District has two subdistricts:

Employment Subdistrict. Through a comprehensive planning process, the city identified a need for large lot industrial sites of at least 20 acres in size. Further analysis of potential areas identified the area south of Newberg, on either side of Highway 219, as the area best suited to meet the city's needs for large site industrial development. As part of the city's strategy for preserving large size industrial sites within industrial districts, the M-4 industrial employment subdistrict is intended to create, preserve and enhance areas containing large parcels (20+ acres) suitable for large industrial users and industrial planned unit developments. An approved plan for an industrial planned unit development is required prior to dividing a large parcel into lots or parcels that are less than 20 acres. The purpose of the planned unit development is to bring related industries and services that complement each other close together, resulting in synergistic effects arising from regular face-to-face communications, economies of scale, and reduced transportation time and cost.

Commercial Subdistrict. The industrial commercial subdistrict is intended to create, preserve and enhance areas for retail establishments serving the specific needs of the M-4 industrial employment area. The subdistrict is similar to the C-1 neighborhood commercial district, although the type and scale of uses permitted are limited to those that will directly support allowed uses within the M-4 industrial employment area. The area is not intended to serve pass-by traffic or provide for the general commercial needs of the community. The intent is to allow uses that complement the area while limiting or eliminating those uses that would have detrimental impact on the overall district.

Potential adverse impacts of industrial activity on adjacent uses are minimized by design and development standards as required by NMC 15.220.090. Large industrial sites and planned unit developments are configured and designed to minimize use-to-use conflicts within the industrial districts, as well as conflicts between industrial uses and those allowed in other districts. The M-4 district is intended to be consistent with the industrial (IND) and commercial (COM) designations of the comprehensive plan.

N. CF Community Facilities District. The purpose of the CF community facilities district is to provide for appropriate development of community facilities, primarily by public agencies or nonprofit organizations. It encourages the preservation of natural resources and open space resources inventoried in the comprehensive plan. The CF district is intended to be consistent with the parks (P) and public/quasi-public (PQ) designations in the comprehensive plan. It may also be consistent with any other designation of the comprehensive plan as determined by the city council.

O. I Institutional District. The I institutional district is intended to support and promote institutional uses. The district provides for the establishment and growth of large institutional campuses as well as accessory and compatible uses. The institutional district is intended to be consistent with the public/quasi-public (PQ) designation of the comprehensive plan.

P. AR Airport Residential District. The purpose of the AR airport residential district is to encourage and support the continued operation and vitality of Sportsman Airpark and to take advantage of the transportation options it provides by allowing airport-

related residential uses. Maximum overall density shall be 8.8 units per gross buildable acre. The AI district is intended to be consistent with the airport residential (AR) designation in the comprehensive plan.

Q. AI Airport Industrial District. The purpose of the AI airport industrial district is to encourage and support the continued operation and vitality of Sportsman Airpark by allowing airport-related industrial uses, and as such to promote economic development for the City of Newberg and Yamhill County. The AI airport industrial district is intended to recognize those areas devoted to or most suitable for the immediate operational facilities necessary for commercial and noncommercial aviation. It is also intended to provide areas for those activities directly supporting or dependent upon aircraft or air transportation when such activities, in order to function, require or benefit from a location within or immediately adjacent to primary flight operations and passengers or cargo service facilities. It is further intended to provide appropriate locations for airport-related light industrial uses that are compatible with and benefit from air transportation. The AI district is intended to be consistent with the industrial (IND) and public/quasi-public (PQ) designations in the comprehensive plan.

**SECTION 5: The following shall be added as Newberg Development Code  
Chapter 15.303**

**Chapter 15.303**

**USE CATEGORIES**

**Sections:**

15.303.010 Purpose

15.303.100 Agricultural uses

15.303.200 Residential uses

15.303.300 Institutional and public uses

15.303.310 Institutional care and housing

15.303.312 Day care category

15.303.315 Group care facility category

15.303.316 Hospital category

15.303.320 Assembly uses

15.303.321 Religious institutions and places of worship category

15.303.322 Private club, lodge, meeting hall category



15.303.330 School uses

15.303.331 School, primary or secondary category

15.303.332 College category

15.303.333 Commercial educational services category

15.303.340 Parks and open spaces uses

15.303.341 Open space category

15.303.342 Park category

15.303.350 Public services uses

15.303.351 Community services category

15.303.352 Emergency services category

15.303.360 Transportation uses

15.303.370 Utility uses

15.303.400 Commercial uses

15.303.410 Commercial office uses

15.303.411 Medical office category

15.303.412 Local business office category

15.303.420 Commercial sales and rentals

15.303.421 Retail sales – general category

15.303.422 Retail sales – bulk outdoor category

15.303.423 Retail sales - convenience category

15.303.430 Eating and drinking establishments category

15.303.440 Commercial services uses

15.303.441 Personal services category

15.303.442 Commercial services category

15.303.443 Commercial vehicle services category

15.303.450 Commercial recreation uses

15.303.451 Commercial recreation – indoor category

15.303.452 Commercial recreation – outdoor category

15.303.453 Commercial recreation – motor vehicle related category

15.303.460 Commercial lodging uses

15.303.500 Industrial uses

15.303.501 Traded sector industry office category

15.303.502 Industrial services category

15.303.503 Wholesale and industry sales category

15.303.504 Warehouse, storage and distribution category

15.303.505 Self-service storage category

15.303.506 Light manufacturing category

15.303.507 Heavy manufacturing category

15.303.508 Waste-related category

15.303.600 Miscellaneous uses

### **15.303.010 Purpose**

A. Defined and Categorized Uses. Chapter 15.305 lists the allowable uses in each zoning district. The uses listed are of two types:

1. Defined Uses. Defined uses are those uses that fit a specific definition contained the definition section under NMC 15.05.030. For example a "family child care home" is a specific defined use that is different than other day care type uses.

2. Use Categories. Use categories are used to describe land uses and activities that may be known by several common names, but are organized on the basis of common functional, product, or physical characteristics. For example beauty salons, tanning salons, and body art studios are classified into a general category "Personal Services." Uses are assigned to the category whose description most closely describes the nature of the primary use. The "characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses.

B. Interpretation. When a use's category is not clearly identifiable, the director, through a Type I procedure, determines the applicable use category or similar use. The following is considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

1. The description of the activity(ies) in relationship to the characteristics of each use category;

2. The relative amount of site or floor space and equipment devoted to the activity;
3. Relative amounts of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. How the use advertises itself; and
11. Whether the activity would function independently of the other activities on the site.

C. Developments with multiple primary uses. When all the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a grocery store, a gift shop, and a pharmacy would be classified in the general retail sales category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

D. Accessory uses. The "accessory uses" subsection lists common accessory uses that are allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Typical accessory uses are listed as examples with the categories.

E. Use of examples. The "examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "wholesale liquidation" but that sells mostly to consumers, would be included in the general retail sales category rather than the wholesale and industry sales category. This is because the actual activity on the site matches the description of the general retail sales category.

F. Exclusions. The "exclusions" subsection of each use categories indicates uses that are classified not included in that particular use category.

### **15.303.100 Agricultural uses**

The following agricultural uses are defined in NMC 15.05.030:

- A. Horticulture.
- B. Livestock and poultry farming.
- C. Home gardening.
- D. Home livestock and poultry raising.

#### **15.303.200 Residential uses**

The following residential uses are defined in NMC 15.05.030:

- A. Dwelling, single-family detached.
- B. Dwelling, single-family attached.
- C. Manufactured home
- D. Manufactured dwelling park.
- E. Mobile home park.
- F. Manufactured home subdivision.
- G. Dwelling, two-family (duplex).
- H. Dwelling, multifamily.
- I. Dwelling, accessory.
- J. Dwelling, mixed-use.
- K. Dwelling, caretaker.
- L. Dormitory.
- M. Home occupation.

#### **15.303.300 Institutional and public uses**

##### **15.303.310 Institutional care and housing**

The following institutional care and housing uses are defined in NMC 15.05.030:

- A. Family child care home
- B. Residential care home
- C. Residential care facility
- D. Prison

### **15.303.312 Day care category**

A. Characteristics. This category includes the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation. It also may include care or supervision of an adult during part of the 24 hours of the day where lodging is not provided.

B. Accessory uses. Play areas.

C. Examples. Preschools, adult day care centers.

D. Exclusions

1. Family child care homes.

2. Child care which does not require state registration or certification, such as babysitting.

3. Accessory day care that is provided primarily for the children of workers at the site is considered an accessory use.

4. Schools, primary or secondary.

5. Residential care homes and residential care facilities.

### **15.303.315 Group care facility category**

A. Characteristics. The group care facility category includes licensed facilities that provide residential care alone or in conjunction with treatment or training or a combination thereof for sixteen or more individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

B. Accessory uses. Personal service uses, recreational facilities, dining facilities, or retail sales for use of tenants, employees, or tenant visitors.

C. Examples. Nursing homes, continuing care retirement facilities, addiction treatment centers, sanitariums.

D. Exclusions. Residential care homes, residential care facilities, and prisons are separate use categories. Assisted living facilities are classified as multiple family dwellings.

### **15.303.316 Hospital category**

A. Characteristics. A medical institution that provides medical and surgical care to patients on an inpatient or emergency basis, which may be in addition to outpatient care.



B. Accessory uses. Personal service uses, dining facilities, or retail sales for use of patients, employees, or patient visitors.

C. Examples. Urgent care centers, medical practitioners who schedule office hours regularly to provide emergency care during nighttime hours.

D. Exclusions. Medical offices are a separate use category. Animal care.

### **15.303.320 Assembly uses**

#### **15.303.321 Religious institutions and places of worship category**

A. Characteristics. Religious institutions and places of worship primarily provide meeting areas for religious activities.

B. Accessory uses. Accessory uses include Sunday school facilities, parking, caretaker's housing, one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one household where the average length of stay is less than 60 days. Religious schools, when accessory to a religious institution.

C. Examples. Examples include churches, temples, synagogues, and mosques.

D. Exclusions. Religious schools are included in schools.

#### **15.303.322 Private club, lodge, meeting hall category**

A. Characteristics. Private clubs, lodges, and meeting halls provide meeting areas that are restricted to those with membership in the host organization, or to individuals or organizations renting the space for special events. The activities may either be religious or non-religious. The activities may be non-profit or for profit, though for-profit activities are limited to those with membership or prospective membership in the organization renting the space.

B. Accessory Uses. Kitchens and dining areas for the use of the host organization or the individuals or organizations renting the facility.

C. Examples: Fraternal lodges, grange halls, wedding halls.

D. Exclusions. Religious institutions and places of worship is a separate category, however a private club, lodge, or meeting hall may be used for religious activities. Community services and commercial educational services are separate categories, though meeting halls may be rented for these types of uses. Meeting halls that are accessory to another use, such as a meeting room for tenants of an apartment complex, are accessory to that primary use.

### **15.303.330 School uses**

#### **15.303.331 School, primary or secondary category**

A. Characteristics. This category includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors.

B. Accessory uses. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school daycare, and administrative offices.

C. Examples. Examples include public and private daytime schools, boarding schools and military academies.

D. Exclusions.

1. Preschools are classified as daycare uses.

2.. Commercial music, dancing, tutoring, art or similar schools are classified as commercial educational services.

#### **15.303.332 College category**

A. Characteristics. This category includes public and private schools that provide post-secondary education primarily for adults, usually working toward a degree or certificate.

B. Accessory uses. Accessory uses include cafeterias, student dormitories, recreational and sport facilities, auditoriums, student book stores, and administrative offices.

C. Examples. Examples include public and private universities and community colleges.

D. Exclusions. Commercial music, dancing, tutoring, art or similar schools are classified as commercial educational services.

#### **15.303.333 Commercial educational services category**

A. Characteristics. Commercial educational services uses are conducted in an office or studio setting and generally focusing on serving students with supplemental education, enrichment, and/or tutoring, where a fee is usually charged for services.

B. Accessory uses. Accessory uses may include incidental retail (e.g., sale of instructional materials) or other amenities primarily for the use of employees and customers.

C. Examples. Examples include tutoring centers, computer classes, after school math and reading centers, arts and crafts classes, music and dancing school.

D. Exclusions. Schools, primary and secondary and colleges are separate use categories. Pre-schools are classified as daycare uses. Uses conducting lessons in the home of the provider are classified as home occupations.

#### **15.303.340 Parks and open spaces uses**

The following parks and open space use is defined in NMC 15.05.030:

A. Golf course.

#### **15.303.341 Open space category**

A. Characteristics. Open spaces provide outdoor space for natural feature preservation, or for walking, sitting, watching, or observing. Most of the area is left in native vegetation. Open spaces may be publicly or privately owned, and public access may be restricted or prohibited.

B. Accessory uses. Trails, viewing platforms, interpretive displays, benches, a single picnic table, including those with covers, not in close proximity to other such tables.

C. Examples. Nature preserves, stream corridors.

D. Exclusions. Parks are a separate use category. Active recreational facilities such as playgrounds or ballfields, pavillions or picnic areas including multiple tables or facilities in close proximity are classified as parks.

#### **15.303.342 Park category**

A. Characteristics. Park uses provide areas for outdoor recreation, whether passive or active. Parks may be privately or publicly operated, but no admission fee is charged.

B. Accessory uses. Accessory uses may include pavilions, club houses, maintenance facilities, concessions, caretaker's quarters, and parking.

C. Examples. Playgrounds, community sports fields, public squares, picnic pavilions.

D. Exclusions. Commercial recreational uses are a separate category. Open spaces without access or with only trails or observation areas are classified as open space. Recreational facilities accessory to a school, church, or public community center use, regardless of whether admission is charged are part of the primary use. Golf courses are a separate use.

#### **15.303.350 Public services uses**

The following public service uses are defined in NMC 15.05.030:

A. Pound, dog or cat.

B. Cemetery.

### **15.303.351 Community services category**

A. Characteristics. Community services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time (for instance, any senior citizen could join a senior center). The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

B. Accessory uses. Accessory uses may include offices, meeting areas, food preparation areas, parking, health and therapy areas, daycare uses, and athletic facilities.

C. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, social service facilities, vocational training for the physically or mentally disabled, soup kitchens, and surplus food distribution centers.

D. Exclusions.

1. Private lodges, clubs, and meeting rooms are a separate use category. Private or commercial athletic, health clubs, or museums are classified as commercial recreation.

2. Parks are a separate category.

3. Uses that provide lodging to individuals. These may be classified as dormitories, residential care homes, residential care facilities, or other uses depending on the nature of the lodging provided.

4. Public safety facilities are classified as emergency services.

### **15.303.352 Emergency services category**

A. Characteristics. Emergency services uses are facilities with personnel or equipment staged for quick response in case of emergency. The facility is operated by a public agency or private franchise agency.

B. Accessory uses. Jails for short term detention associated with a police station. Emergency vehicle and equipment storage or repair.

C. Examples. Police stations, fire stations, ambulance stations, and emergency highway safety equipment storage yards.

D. Exclusions. Emergency shelters are classified under community services. Utility maintenance yards are classified under utility distribution plant or yard.

### **15.303.360 Transportation uses**

The following transportation uses are defined in NMC 15.05.030:

- A. Transportation facilities and improvements
- B. Transit center
- C. Parking facility
- D. Airport
- E. Landing field
- F. Heliport
- G. Helipad
- H. Marina

#### **15.303.370 Utility uses**

The following transportation uses are defined in NMC 15.05.030:

- A. Basic utilities.
- B. Utility distribution plant or yard.
- C. Wastewater treatment plant.
- D. Telecommunication facility.

#### **15.303.400 Commercial uses**

##### **15.303.410 Commercial office uses**

##### **15.303.411 Medical office category**

- A. Characteristics. Medical offices provide medical or surgical care to patients within the office. Care is provided by or under the direction of a government licensed medical practitioner. Services are provided on an outpatient basis only. Regular office hours are during the day with only occasional night time emergency care.
- B. Accessory uses. Sale or rental of goods associated with the medical care.
- C. Examples. Offices for licensed doctors, dentists, osteopaths, massage therapists, naturopathic physicians, outpatient laboratories where the patient testing is largely conducted on-site.
- D. Exclusions
  - 1. Hospitals and urgent care centers are classified under hospitals.
  - 2. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified as residential care homes, residential care facilities, or group care facilities, depending on the nature of the facility.

3. Medical laboratories other than outpatient laboratories are classified as commercial service or industrial service uses depending on the nature of the laboratory.

4. Personal care by someone other than a licensed medical practitioner is included in personal services.

e. Veterinary, animal, and pet care is included either as commercial service or industrial service depending on the nature of the use.

#### **15.303.412 Local business office category**

A. **Characteristics.** Local business offices are office uses that serve the local area. General public visits to the office may be frequent. There is little or no outdoor storage of equipment and materials. Vehicles regularly on site are limited to passenger and light duty vehicles. No manufacturing occurs on site. Materials on site are mostly hand carried.

B. **Accessory uses.** Accessory retail sales of items associated with the business is allowed.

C. **Examples.** Offices for attorneys, real estate agents, accountants, insurance agents, travel agents. Government offices.

D. **Exclusions.** Medical offices, personal services, and traded sector industrial offices are separate uses. Banks are commercial service uses. Office uses may be accessory to other uses, such as manufacturing, school, or church uses.

#### **15.303.420 Commercial sales and rentals**

The following commercial sales and rental uses are defined in NMC 15.05.030:

A. **Temporary merchant.**

#### **15.303.421 Retail sales – general category**

A. **Characteristics.** General retail sales uses sell or rent goods to the general public. Items are sold indoors, or, if outdoors, are limited to small items that don't require machinery to load to customers. Most items for sale are stored on or picked up from the site. Operators may be commercial or non-profit entities.

B. **Accessory uses.** Indoor manufacturing of small items primarily to be sold on site, such as retail bakeries or art studios, provided the floor area devoted to such production is less than the floor area devoted to retail sales. Repair of items sold, such as bicycles or vacuums. Wholesale sales of items that are primarily sold retail. Outdoor display for sale of two or fewer vehicles, or of bulky items requiring machinery to load occupying less than 1,000 square feet display area.

C. **Examples.** Pharmacies, department stores, secondhand stores, pawn shops, art sales.

D. Exclusions. Bulk outdoor retail, wholesale and industry sales, and retail convenience sales.

**15.303.422 Retail sales – bulk outdoor category**

A. Characteristics. Bulk outdoor sales uses sell or rent large items to the general public from stock displayed or stored in whole or in part outdoors. Large items include vehicles and materials that require forklifts, tow trucks, or other loading equipment to load to customers. Sales may include sale of other items indoors or outdoors.

B. Accessory uses. Indoor manufacturing of small items primarily to be sold on site. Repair of items sold, such as automobile repair. Wholesale sales of items that are primarily sold retail.

C. Examples. Automobile sales, RV sales, boat sales, bark chip sales, automobile rental, self-moving truck rental, retail lumber yard.

D. Exclusions. Retail indoor sales, wholesale and industry sales. Outdoor vehicle sales with two or fewer vehicles displayed is general retail sales.

**15.303.423 Retail sales - convenience category**

A. Characteristics. Convenience retail sales uses sell items to the general public that mostly are used or consumed the same day. Store size is limited to a specific floor area established by the zoning district. Items are sold predominantly indoors.

B. Accessory uses. Eating and drinking (non-alcohol related).

C. Examples. Mini-marts.

D. Exclusions. Retail sales - general.

**15.303.425 Retail food and beverage production category**

A. Characteristics. Uses in this category prepare and package food and beverages for retail sale or consumption on site, and for shipment for sales at other locations. These are medium sized operations, using 10,000 square feet or less of floor for production. The area on site devoted to retail sales and dining is at least 25 percent of the floor area.

B. Accessory uses. Drive-up service windows. Note that drive-up service windows require a conditional use permit in some zones. Entertainment.

C. Examples. Small scale wineries, breweries, and distilleries with tasting rooms on-site. Retail bakeries. Chocolate shops.

D. Exclusions. Wholesale bakeries, wineries, breweries, and distilleries with no or smaller retail or dining components are classified as light industrial uses. Restaurants or retail shops that also produce food or beverages, where dining or customer areas comprise the majority of the floor area, or all food is sold "take out," such as some brew



pubs and bakeries, are classified as eating and drinking establishment or general retail sales.

#### **15.303.430 Eating and drinking establishments category**

A. Characteristics. Eating and drinking establishments provide customers ready to consume food or drink for purchase. These establishments often provide tables and seating for the customers, and may provide take out or delivery service. Eating and drinking establishments are of two types:

1. Alcohol related are those establishments that serve alcohol and where minors are prohibited by law in any portion of the customer area.

2. Non-alcohol related are those establishments that do not serve alcohol, or that do serve alcohol but minors are not prohibited by law in any portion of the customer area.

B. Accessory uses. Drive-up service windows. Note that drive-up service windows require a conditional use permit in some zones. Entertainment. Bakeries, wineries, breweries, distilleries and similar food production areas provided the area devoted to production and storage is less than the floor area devoted to dining and retail sales, and the food is offered for sale on site.

C. Examples. Alcohol related uses include bars, night clubs, taverns, and tasting rooms. Non-alcohol related uses include restaurants, take-out food service, and soda fountains.

D. Exclusions. Non-profit membership-only clubs are classified in private clubs, lodges, and meeting halls.

#### **15.303.440 Commercial services uses**

The following commercial services uses are defined in NMC 15.05.030:

A. Temporary merchant.

#### **15.303.441 Personal services category**

A. Characteristics. Personal service uses are engaged primarily in physical aesthetic services or non-medical treatment to individuals at the site.

B. Accessory uses. Retail sale of products associated with the service is permitted, such as sale of hair care products at a beauty salon.

C. Examples. Beauty salons, barber shops, tanning salons, body art salons.

D. Exclusions. Personal services exclude medical offices.

**15.303.442 Commercial services category**

A. Characteristics. Commercial service establishments provide services to the general public for compensation. Customers typically come to the site to receive the service. Items that are brought in and serviced are predominantly small, hand carried items. Outdoor storage of materials on site is limited to small (under 400 square feet), fenced and screened areas. The establishments use passenger or light duty vehicles at the site; larger vehicles rarely visit the site. Operators may include government or non-profit organizations.

B. Accessory uses. Retail sale of items related to the service.

C. Examples. Banks, post offices, photocopy stores, dry cleaning and laundry services, mortuaries, small animal clinics and hospitals, sewing machine, vacuum, small appliance or jewelry repair shops, tailor shops, photography studios.

D. Exclusions. Outpatient medical laboratories are classified as medical office uses. Commercial kennels.

**15.303.443 Commercial vehicle services category**

A. Characteristics. Commercial vehicle service uses repair and service passenger vehicles, light duty vehicles and recreational vehicles for the general public. This includes fueling and washing services.

B. Accessory uses. Convenience retail uses.

C. Examples. Automobile service stations, auto repair, auto transmission, radiator, or electrical repair, car washes, towing businesses.

D. Exclusions. Servicing primarily to medium and heavy duty vehicles, farm equipment, and industrial vehicles is classified as industrial vehicle service.

**15.303.450 Commercial recreation uses**

**15.303.451 Commercial recreation – indoor category**

A. Characteristics. Indoor commercial recreation uses provide entertainment, recreation, and fitness activities for spectator or participants, within buildings. Fees usually are charged for admission or participation.

B. Accessory uses. Eating and drinking establishments and retail sales for spectators or participants. Outdoor commercial recreation uses occupying less than 10 percent of the site.

C. Examples. Theaters, skating rinks, billiard halls, bowling alleys, dance halls, indoor miniature golf courses, arcades, athletic clubs, gyms.

D. Exclusions. Recreational facilities accessory to a school or church use, regardless of whether admission is charged. Motor vehicle related commercial

recreation uses are a separate category. Temporary events of less than two weeks duration are regulated as exhibitors under Chapter 5.10.

**15.303.452 Commercial recreation – outdoor category**

A. Characteristics. Outdoor commercial recreation uses provide entertainment, recreation, and fitness activities for spectators or participants outdoors. Fees usually are charged for admission or participation.

B. Accessory uses. Eating and drinking establishments and retail sales for spectators or participants.

C. Examples. Drive-in theaters, sports stadiums, race tracks, outdoor driving ranges, amusement parks, outdoor miniature golf courses.

D. Exclusions. Recreational facilities accessory to a school or church use, regardless of whether admission is charged. Golf courses are a separate use. Vehicle related commercial recreation use is a separate category. Temporary events of less than two weeks duration are regulated as exhibitors under Chapter 5.10.

**15.303.453 Commercial recreation – motor vehicle related category**

A. Characteristics. Motor vehicle related commercial recreation uses provide entertainment or recreation with motorized vehicles for spectators and/or participants.

B. Accessory uses. Eating and drinking establishments and retail sales for spectators or participants.

C. Examples. Car or motorcycle racing tracks, drag strips, go cart tracks, remote control vehicles

D. Exclusions. Non-commercial remote control vehicle tracks open for public use or accessory to park use.

**15.303.460 Commercial lodging uses**

The following commercial lodging uses are defined in NMC 15.05.030:

A. Vacation rental home.

B. Bed and breakfast establishment.

C. Hotel or motel.

D. Recreational vehicle park.

**15.303.500 Industrial uses**

**15.303.501 Traded sector industry office category**

1. Characteristics. Traded-sector industry offices are corporate offices for traded-sector industries that design, research, or create a product where the manufacturing is

done at a different facility, or the product is intangible or intellectual. It may include offices for management of corporations or sales of products where the primary market is beyond the local region. General public visits to the office are very infrequent.

2. Accessory uses. On-site testing or modeling, where such manufacturing comprises less than 20 percent of the floor area.

3. Examples. Offices for architects, surveyors, engineers, financial institutions, insurance companies, manufacturing designers, software companies and internet based businesses where the clientele served by the office are largely beyond the local region, call centers, technical support centers, movie studios, television or radio station studios.

4. Exclusions.

a. Local business offices, medical offices, personal services, commercial services are separate uses.

b. Office uses accessory to on-site manufacturing are classified under the primary use.

#### **15.303.502 Industrial services category**

1. Characteristics. Industrial service uses provide services to other businesses or industries.. Services often are provided off site at the customer location. Services to the general public are allowed, but general public visits to the site are infrequent. Items to be serviced may be brought in and out by truck, trailer or forklift. Materials may be stored in warehouses, or outside in enclosed areas. Trailers and medium or heavy duty vehicles may be used and stored on site.

2. Accessory uses. Sale of items related to the service is permitted.

3. Examples. Plumbing, heating and cooling services, construction contractors, building or landscape maintenance services, large animal veterinary clinics/hospitals, laboratories, farm implement repair, medium and heavy duty vehicle repair.

4. Exclusions. Commercial vehicle service and commercial service are separate uses. Truck stops.

#### **15.303.503 Wholesale and industry sales category**

1. Characteristics. Wholesale sales uses sell goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services. Items are only occasionally sold directly to the general public.

2. Accessory uses. Retail sales of items to business people visiting the site.

3. Examples. Wholesale lumber yards, construction materials stores primarily serving contractors, construction equipment rental yards, wholesale nursery sales, agricultural machinery sales, agricultural supply stores.

4. Exclusions. Livestock sales.

**15.303.504 Warehouse, storage and distribution category**

1. Characteristics. Warehouse, storage and distribution uses involve the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. It includes data centers that store and distribute electronic data. There is little on-site sales activity with the customer present.

2. Accessory uses. Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.

3. Examples. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; the stockpiling of sand, gravel, or other aggregate materials; contractors equipment storage; and data centers.

4. Exclusions.

a. Uses that involve the transfer or storage of solid or liquid wastes are classified as waste-related uses.

b. Self-service storage is a separate use category.

**15.303.505 Self-service storage category**

1. Characteristics. Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.

2. Accessory uses. Accessory uses may include security and leasing offices. Living quarters for one resident manager per site are allowed. Other living quarters are subject to the regulations for residential uses. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the self-service storage use. The rental of trucks or equipment is also not considered accessory to a self-service storage use.

3. Examples. Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini-warehouses. RV storage.

4. Exclusions. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the warehouse, storage and distribution category.

**15.303.506 Light manufacturing category**

1. Characteristics. Light manufacturing uses involves manufacturing, processing, fabrication, packaging, or assembly of goods. These types of firms are involved in the secondary processing and assembly of materials and components into finished products, generally for the wholesale market, for transfer to other plants, or to order for firms or consumers. The external impact from these uses is generally less than heavy manufacturing. Outdoor storage and processing of goods and materials is less than 10 percent of the site. Transportation needs are often met by truck. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

2. Accessory uses. Retail sales of good produced on site, provided the floor are devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet).

3. Examples. Instrument and machinery manufacturers, food processors, furniture manufacturers, wineries, wholesale bakeries.

4. Exclusions. Heavy manufacturing is a separate category.

**15.303.507 Heavy manufacturing category**

1. Characteristics. Heavy manufacturing is a use that involves manufacturing, processing, fabrication, packaging, or assembly of large volumes of raw materials into refined products. These types of firms have significant external impacts. Outdoor storage and processing of goods and materials may exceed 10 percent of the site. Transportation needs are often met by both truck and rail. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site (typically fewer than five per day per 1,000 square feet of floor area).

2. Accessory uses. Retail sales of good produced on site, provided the floor are devoted to retail sales is small (less than 10 percent of the floor area, up to 2,000 square feet), and on-site sales represent less than 10 percent of total product sales.

3. Examples. Asphalt and concrete plants, paper mills, steel mills, abattoirs.

4. Exclusions. Uses that involve storage of materials without any processing.

**15.303.508 Waste-related category**

1. Characteristics. Waste-related uses receive solid or liquid wastes from others for disposal on the site or for transfer to another location, collect sanitary wastes, or manufacture or produce goods or energy from the biological decomposition of organic material. Waste-related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340-100-110, Hazardous Waste Management.

2. Accessory Uses. Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.

3. Examples. Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, portable sanitary collection equipment storage and pumping, and hazardous-waste-collection sites, automobile wrecking yards.

4. Exclusions.

a. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a waste-related use.

b. Sewer pipes that serve a development are considered a Basic Utility.

c. Wastewater treatment plants are a separate use.

#### **15.303.600 Miscellaneous uses**

The following residential uses are defined in NMC 15.05.030:

A. Accessory building

B. Accessory use.

**SECTION 6: The following shall be added as Newberg Development Code Chapter 15.305:**

#### **Chapter 15.305**

#### **ZONING USE TABLE**

#### **15.305.010 Classification of Uses:**

The zoning use table under NMC 15.305.020 identifies the land uses that are allowed in the various zoning districts. The specific land use categories are described in NMC Chapter 15.303. The table identifies each use as one of the following:

P: Permitted Use: The use is a permitted use within the zone. Note that the use still may require design review, building permits, or other approval in order to operate.

C: Conditional Use: A conditional use permit is required for the use. See Chapter 15.225.

S: Special Use: The use is subject to specific standards as identified within this Code. The applicable section is included in the last column of the table.

(#): A note indicates specific limits on the use. These notes are listed at the bottom of the table.

X: Prohibited Use: The use is specifically prohibited.



If none of the codes above are indicated, then the use is not permitted within the zone.

15.305.020 Zoning Use Table

*[See the next pages for table to be inserted here]*

Newberg Development Code - Zoning Use Table Revision

7/24/2013

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
100	AGRICULTURAL USES																			
Def.	Horticulture	P	P	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	P(1)	
Def.	Livestock and poultry farming	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Def.	Home gardening	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Home livestock and poultry raising	S	S															S		Title 6
200	RESIDENTIAL USES																			
Def.	Dwelling, single-family detached	P(2)	P	P(3)		P		C(4)	C(5)								P	P(6)		Subject to density limits of 15.405.010(B)
Def.	Dwelling, single-family attached	S(2)	S	S(3)		S		C(4)	C(5)								P	P(6)		15.415.050; Subject to density limits of 15.405.010(B)
Def.	Manufactured home on individual lot	S(2)	S	S(3)	P(7)	S												P(6)		15.445.050 - 15.445.070; Subject to density limits of 15.405.010(B)
Def.	Manufactured dwelling park		S	S	S															15.445.075 - 15.445.160
Def.	Mobile home park		S	S	S															15.445.075 - 15.445.160
Def.	Manufactured home subdivision		S		S															15.445.075 - 15.445.160
Def.	Dwelling, two-family (duplex)	P(2)	P	P	C	P		C(4)	P(8) /C(5)								P			Subject to density limits of 15.405.010(B)
Def.	Dwelling, multifamily	C	P	P	C	P		C(4)	P(8) /C(5)								P			Subject to density limits of 15.405.010(B)
Def.	Dwelling, accessory	C	S	S		S											S			15.445 Article V.
Def.	Dwelling, mixed-use						P(9)	P(10)	P(8) /C(5)	P(11)	C	C								
Def.	Dwelling, caretaker										P	P	P	C					P(12)	Limited to one per lot, and allowed whenever the use requires the on-site residence of such person.
Def.	Dormitory		C	P		P											P			
Def.	Home occupation (No more than one outside paid employee)	S	S	S(13)	S	S	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S(13)	S	S	S(13)	15.415.050
Def.	Home occupation (More than one outside paid employee)	C	C	C(13)	C	C	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C(13)	C	C	C(13)	15.415.050
300	INSTITUTIONAL AND PUBLIC USES																			
310	INSTITUTIONAL CARE AND HOUSING																			
Def.	Family child care home	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 657A
312	Day care	P	P	P	C	P	P	P	P		C	C	C	C	P		P		P(14)	ORS 657A
Def.	Residential care home (5 or fewer people)	P	P	P(13)	P(13)	P	P(13)	P(13)	P(13)	P(13)							P	P(13)		ORS 197.665
Def.	Residential care facility (6-15 people)	C	P	P	C	P		C	C								P			ORS 197.665
315	Group care facility (16+ people)	C	C	C		C		C									P			
316	Hospital	C	C	C		C		P	P								P			
Def.	Prison										C	C	C	C						
320	ASSEMBLY																			
321	Religious institution, place of worship	P	P	P	P	P	P	P	P	P		P(29)				C	P			
322	Private club, lodge, meeting hall			C	C			P	P	C							P			
330	SCHOOLS																			

Key:

P: Permitted use

S: Special use - use requires a special use permit

C: Conditional use - requires a conditional use permit

X: Prohibited use

(#): See notes for limitations



# Newberg Development Code - Zoning Use Table Revision

7/24/2013

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
330	School, primary or secondary	P	P	P		P										C				
331	College	P	P	P		P	P	P	P(15)							C	P			
332	Commercial educational services	C	C	C		C	P	P	P								C			
340	<b>PARKS AND OPEN SPACES</b>																			
341	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
342	Park	P	P	P	P	P	P	P	P	P				P(16)		P(17)	P			
Def.	Golf course	P	P	P												P(17)				
350	<b>PUBLIC SERVICES</b>																			
351	Community services	C	C	C	C	P		P	P	P						C	P			
352	Emergency services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Pound, dog or cat							C	C		C	P	P	C	C					
Def.	Cemetery	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	ORS 97.46
360	<b>TRANSPORTATION</b>																			
Def.	Transportation facilities and improvements	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Transit center							P	P	P	P	P	P							
Def.	Parking facility			P		C	C	P	P(18)	C	P	P	P		P		P			
Def.	Airport, landing field											C	C						P	
Def.	Heliport, helipad	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
Def.	Marina									C										
	Pilings, piers, docks, and similar in-water structures									C										
370	<b>UTILITIES</b>																			
Def.	Basic utilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Def.	Utility distribution plant or yard											P	P	P						
Def.	Wastewater treatment plant											C	P	C						
Def.	Telecommunication facility incorporated into existing structure/utility pole and no taller than 18 ft above existing structure/utility pole	C	C	C	C	C	S	S	S	S	S	S	S	S	S		S			15.445, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height, except those incorporated into an existing structure no taller than 18 feet above that structure.						C	C	C		C	S(19)	S(19)	P	C		C			15.445, Article IV
Def.	Telecommunication facility, including radio towers and transmitters, which are over 100 feet						C	C	C		C	C	C	C	C		C			15.445, Article IV
400	<b>COMMERCIAL USES</b>																			
410	<b>COMMERCIAL OFFICES</b>																			
411	Medical Office			C		P	P(20)	P	P(21)								P			
412	Local Business Office					P(22)	P(20)	P	P(21)											
420	<b>COMMERCIAL SALES AND RENTALS</b>																			
421	Retail sales - general						P(20)	P	P(15) (21)	P		P(23)								

Key:

P: Permitted use

C: Conditional use - requires a conditional use permit

S: Special use - use requires a special use permit

X: Prohibited use

(#): See notes for limitations

Exhibit "A" to  
Ordinance No. 2013-2763



Newberg Development Code - Zoning Use Table Revision

7/24/2013

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
422	Retail sales - bulk outdoor							P	C			P								
423	Retail sales - convenience						P(20)	P	P(21)	P		P(24)			P(25)					
Def.	Temporary merchant							S	S(21)											5.15.050 et seq.
425	Retail food and beverage production							S	S											15.445, Article VIII
430	<b>EATING AND DRINKING ESTABLISHMENTS</b>																			
430	Eating and drinking - alcohol related							P	P(21)	P										Requires liquor license
430	Eating and drinking - non-alcohol related						P(20)	P	P(21)	P	P	P							C(26)	
440	<b>COMMERCIAL SERVICES</b>																			
441	Personal services					P	P(20)	P	P(21)	P										
442	Commercial services						P(20)	P	P(21)											
443	Commercial vehicle service							P	C		P(27)	P			P(28)					
Def.	Kennel, commercial							C	C		C	P	P	C	C					
450	<b>COMMERCIAL RECREATION</b>																			
451	Commercial recreation - indoors							P	P(15)		P(29)	P(29)								
452	Commercial recreation - outdoors							P				C								
453	Commercial recreation - motor vehicle related											C							C(33)	
460	<b>COMMERCIAL LODGING</b>																			
Def.	Vacation rental home	C	C	S	S	S	S(13)	S(13)	S(13)	S(13)										15.445, Article VII
Def.	Bed and breakfast (2 or fewer rooms)	C	S	S		S	S	S	S	S										15.445.010
Def.	Bed and breakfast (3 or more rooms)	C	C	C		C	C	S	S	S										15.445.010
Def.	Hotel or motel							P	P(15)	P									C(26)	
Def.	Recreational vehicle park							C		C	C	C	C							15.445.170
500	<b>INDUSTRIAL USES</b>																			
501	Traded-sector industry office					P(30)	P(30)	P	P		P	P		P					P(33)	
502	Industrial services							C				P	P	P					P(33)	
503	Wholesale and industry sales							C(31)			P(31)	P	P	P					P(33)	
504	Warehouse, storage, and distribution										P(32)	P	P	P					P(33)	
505	Self-service storage							P			P	P	P	P						
506	Light manufacturing										P	P	P	P					P(33)	
507	Heavy manufacturing											P(34)	P	C						
508	Waste-related												C	C						
600	<b>MISCELLANEOUS USES</b>																			
Def.	Accessory building and use incidental to other permitted uses in the zone	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to permitted uses in the zone and not defined or categorized	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Uses similar to conditional uses in the zone and not defined or categorized	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	

Key:

P: Permitted use

C: Conditional use - requires a conditional use permit

S: Special use - use requires a special use permit

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(#): See notes for limitations

#	Use	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	C-4	M-1	M-2	M-3	M-4-I	M-4-C	CF	I	AR	AI	Notes and Special Use Standards
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**Notes**

- (1) Limited to sites with pre-existing agricultural uses, including at time of annexation.
- (2) Limited to one per lot as a permitted use. More than one per lot allowed only through a conditional use permit or planned unit development, subject to density limits of 15.405.010(B).
- (3) Permitted on individual lots created prior to November 17, 1992. Homes on individual lots created on or after November 17, 1992 will only be permitted through the planned unit development process.
- (4) The permitted density shall be stated on the conditional use permit.
- (5) The dwelling units must front onto Hancock or Second Street. No more than 30 percent of a single street frontage of a block may be occupied by residential uses. Contiguous residential street frontage must be less than 60
- (6) One residence per lot with the addition of a tie-down or hangar for an airplane. At a minimum, a paved tie-down or hangar shall be provided on the property, or the property shall include permanent rights to a private hangar within the subdivision. See Chapter 15.336
- (7) The homes are not subject to the development standards set forth in NMC 15.445.050 through 15.445.070.
- (8) The units must be located on the same lots as another use permitted or conditionally permitted in the C-3 zone and may not occupy the first floor storefront area (the portion of the building closest to the primary street).
- (9) Permitted on the ground floor, one per lot in conjunction with any other use permitted or conditional use in the C-1 zone. On upper floors, dwelling units are unlimited and one parking space per dwelling unit is required.
- (10) Permitted above any permitted use in the C-2 zone. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (11) Must be located above ground floor commercial uses.
- (12) One residence of area not more than 40 percent of the area of the hangar floor, up to a maximum of 1,500 square feet, for an airport caretaker or security officer on each separate parcel.
- (13) Permitted in existing dwelling units only. New dwelling units may not be created for this use unless the dwelling unit would otherwise be allowed.
- (14) Allowed exclusively for employers or employees of businesses located within this district.
- (15) Facility over 40,000 square feet gross floor area requires a conditional use permit.
- (16) Allowed in areas designated in industrial area plans.
- (17) Limited to facilities owned or operated by a public agency.
- (18) Parking garages are a conditional use, and must have first floor street frontage of 40 feet or less for ingress or egress. First floor development must be commercial.
- (19) A conditional use permit is required if the facility is less than 2,000 feet from the nearest telecommunication facility.
- (20) Businesses in the C-1 zone that have hours of operation between 10 p.m. and 7 a.m. require a conditional use permit.
- (21) Drive-up service windows accessory to an existing business on the site with walk-in customer service, such as a drive-up bank window, are allowed only with a conditional use permit. Otherwise, drive-up service windows, except those in service on April 1, 2002, are prohibited. Changes in use will not be allowed.
- (22) Retail sales of goods on site not allowed.
- (23) Limited to second hand stores.
- (24) Store size is limited to 2,000 square feet gross floor area.
- (25) Store size is limited to 5,000 square feet gross floor area.
- (26) Use must demonstrate that it is compatible with airport operations.
- (27) Limited to service stations.
- (28) Limited to card lock fueling only. Retail services are limited to self-vending services.
- (29) Permitted provided the structure is designed for easy conversion to industrial use, including not having fixed seating.
- (30) Limited to 10,000 square feet maximum floor area.
- (31) Allowed indoors only.
- (32) Allowed indoors only. Outdoor use requires a conditional use permit.
- (33) Must be aviation related. See Chapter 15.332.
- (34) Limited to expansion or change of existing heavy manufacturing uses.

**Key:**

P: Permitted use

C: Conditional use - requires a conditional use permit

S: Special use - use requires a special use permit

X: Prohibited use

(#): See notes for limitations

**SECTION 7: Newberg Development Code Section 15.220.050 shall be amended as follows:**

15.220.050 Criteria for design review (Type II process).

A. Type I. The following criteria are required to be met in order to approve a Type I design review request:

1. Parking. Parking areas shall meet the requirements of NMC 15.440.010.
2. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and NMC 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.
3. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.
4. Signs. Signs shall comply with NMC 15.435.010 et seq. dealing with signs.
5. Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC ~~15.304.010 through 15.328.040~~ 15.305.010 through 15.336.020.

B. Type II. The following criteria are required to be met in order to approve a Type II design review request:

1. Design Compatibility. The proposed design review request incorporates an architectural design which is compatible with and/or superior to existing or proposed uses and structures in the surrounding area. This shall include, but not be limited to, building architecture, materials, colors, roof design, landscape design, and signage.
2. Parking and On-Site Circulation. Parking areas shall meet the requirements of NMC 15.440.010. Parking studies may be required to determine if adequate parking and circulation are provided for uses not specifically identified in NMC 15.440.010. Provisions shall be made to provide efficient and adequate on-site circulation without using the public streets as part of the parking lot circulation pattern. Parking areas shall be designed so that vehicles can efficiently enter and exit the public streets with a minimum impact on the functioning of the public street.
3. Setbacks and General Requirements. The proposal shall comply with NMC 15.415.010 through 15.415.060 dealing with height restrictions and public access; and NMC 15.405.010 through 15.405.040 and NMC 15.410.010 through 15.410.070 dealing with setbacks, coverage, vision clearance, and yard requirements.
4. Landscaping Requirements. The proposal shall comply with NMC 15.420.010 dealing with landscape requirements and landscape screening.
5. Signs. Signs shall comply with NMC 15.435.010 et seq. dealing with signs.



6. Manufactured Dwelling, Mobile Home and RV Parks. Manufactured dwelling and mobile home parks shall also comply with the standards listed in NMC 15.445.075 through 15.445.100 in addition to the other clear and objective criteria listed in this section. RV parks also shall comply with NMC 15.445.170 in addition to the other criteria listed in this section.

7. Zoning District Compliance. The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in NMC ~~15.304.010 through 15.328.040~~ 15.305.010 through 15.336.020. Through this site review process, the director may make a determination that a use is determined to be similar to those listed in the applicable zoning district, if it is not already specifically listed. In this case, the director shall make a finding that the use shall not have any different or more detrimental effects upon the adjoining neighborhood area than those specifically listed.

8. Subdistrict Compliance. Properties located within subdistricts shall comply with the provisions of those subdistricts located in NMC 15.340.010 through 15.348.060.

9. Alternative Circulation, Roadway Frontage Improvements and Utility Improvements. Where applicable, new developments shall provide for access for vehicles and pedestrians to adjacent properties which are currently developed or will be developed in the future. This may be accomplished through the provision of local public streets or private access and utility easements. At the time of development of a parcel, provisions shall be made to develop the adjacent street frontage in accordance with city street standards and the standards contained in the transportation plan. At the discretion of the city, these improvements may be deferred through use of a deferred improvement agreement or other form of security.

10. Traffic Study Improvements. If a traffic study is required, improvements identified in the traffic study shall be implemented as required by the director.

**SECTION 8: Newberg Development Code Section 15.220.060 shall be amended as follows:**

**15.220.060 Additional requirements for ~~multi-unit~~ multifamily residential projects.**

The purpose of this section is to ensure that residential projects containing three or more units meet minimum standards for good design, provide a healthy and attractive environment for those who live there, and are compatible with surrounding development. As part of the site design review process, an applicant for a new ~~multi-unit~~ multifamily residential project must demonstrate that some of the following site and building design elements, each of which has a point value, have been incorporated into the design of the project. At least 14 points are required for attached single-family projects of any size and smaller multifamily projects with six or fewer units and at least 20 points are required for multifamily projects with seven or more units. For more information and illustrations of each element, refer to the Newberg Residential Development Design Guidelines (July 1997).

A. Site Design Elements.

1. Consolidate green space to increase visual impact and functional utility. This applies to larger projects which collectively have a significant amount of open space areas which can be consolidated into children's play areas, gardens, and/or dog-walking areas (three points).
2. Preserve existing natural features, including topography, water features, and/or native vegetation (three points).
3. Use the front setback to build a street edge by orienting building(s) toward the street with a relatively shallow front yard (12 to 15 feet for two-story buildings) to create a more "pedestrian-friendly" environment (three points).
4. Place parking lots to the sides and/or back of projects so that front yard areas can be used for landscaping and other "pedestrian-friendly" amenities (three points).
5. Create "outdoor" rooms in larger projects by grouping buildings to create well-defined outdoor spaces (two points).
6. Provide good-quality landscaping. Provide coordinated site landscaping sufficient to give the site its own distinctive character, including the preservation of existing landscaping and use of native species (two points).
7. Landscape at the edges of parking lots to minimize visual impacts upon the street and surrounding properties (two points).
8. Use street trees and vegetative screens at the front property line to soften visual impacts from the street and provide shade (one point).
9. Use site furnishings to enhance open space. Provide communal amenities such as benches, playground equipment, and fountains to enhance the outdoor environment (one point).
10. Keep fences neighborly by keeping them low, placing them back from the sidewalk, and using compatible building materials (one point).
11. Use entry accents such as distinctive building or paving materials to mark major entries to ~~multi-unit~~ multifamily buildings or to individual units (one point).
12. Use appropriate outdoor lighting which enhances the nighttime safety and security of pedestrians without causing glare in nearby buildings (one point).

B. Building Design Elements.

1. Orient buildings toward the street. For attached single-family and smaller multifamily projects, this means orienting individual entries and porches to the street. In larger projects with internal circulation and grounds, this means that at least 10 percent of the units should have main entries which face the street rather than be oriented toward the interior (three points).
2. Respect the scale and patterns of nearby buildings by reflecting the architectural styles, building details, materials, and scale of existing buildings (three points).
3. Break up large buildings into bays by varying planes at least every 50 feet (three points).
4. Provide variation in repeated units in both single-family attached and large multifamily projects so that these projects have recognizable identities. Elements such as color; porches, balconies, and windows; railings; and building materials and form, either alone or in combination, can be used to create this variety (three points).
5. Building Materials. Use some or all of the following materials in new buildings: wood or wood-like siding applied horizontally or vertically as board and batten; shingles,

as roofing, or on upper portions of exterior walls and gable ends; brick at the base of walls and chimneys; wood or wood-like sash windows; and wood or wood-like trim (one point for each material described above).

6. Incorporate architectural elements of one of the city's historical styles (Queen Anne, Dutch colonial revival, colonial revival, or bungalow style) into the design to reinforce the city's cultural identity. Typical design elements which should be considered include, but are not limited to, "crippled hip" roofs, Palladian-style windows, roof eave brackets, dormer windows, and decorative trim boards (two points).

7. Keep car shelters secondary to the building by placing them to the side or back of units and/or using architectural designs, materials, and landscaping to buffer visual impacts from the street (two points).

8. Provide a front porch at every main entry as this is both compatible with the city's historic building pattern and helps to create an attractive, "pedestrian-friendly" streetscape (two points).

9. Use sloped roofs at a pitch of 3:12 or steeper. Gable and hip roof forms are preferable (two points).

**SECTION 9: Newberg Development Code Section 15.240.020(G) shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology.*

G. Buildings and Uses Permitted. Buildings and uses in planned unit developments are permitted as follows:

1. R-1, R-2, R-3 and RP Zones.
  - a. Buildings and uses permitted outright or conditionally in the use district in which the proposed planned unit development is located.
  - b. Accessory buildings and uses.
  - c. Duplexes.
  - d. Dwellings, single, manufactured, and ~~multiple family~~ multifamily.
  - e. Convenience commercial services which the applicant proves will be patronized mainly by the residents of the proposed planned unit development.
2. C-1, C-2 and C-3 Zones.
  - a. When proposed as a combination residential-commercial planned unit development, uses and buildings as listed in subsection (G)(1) of this section and those listed as permitted outright or conditionally in the use district wherein the development will be located.
  - b. When proposed as a residential or commercial planned unit development, uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.
3. M-1, M-2 and M-3 Zones. Uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.
4. M-4 Zone. Uses and buildings as permitted outright or conditionally in the use district wherein the development will be located. Proposed sites, structures and uses must work together to support a common theme, product or industry. Applicants for an industrial planned development in M-4 must demonstrate conformance with any adopted master plan for the subject area and provide a plan describing how the

proposed structures and uses will work together to support a common theme, product or industry. Prior to subdivision, covenants must limit occupancy to the types of industrial and related uses identified in the development plan.

**SECTION 10: Newberg Development Code Section 15.240.020(Q) shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology.*

Q. Design Standards. The proposed development shall meet the design requirements for ~~multi-unit~~ multifamily residential projects identified in NMC 15.220.060. A minimum of 40 percent of the required points shall be obtained in each of the design categories.

**SECTION 11: Newberg Development Code Section 15.242.020 shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology.*

**15.242.020 Flexible development standards.**

Developers choosing this option may elect to use any/all of the following flexible development standards. Use of this option will require the developer to make provisions for affordable housing as described in NMC 15.242.030.

**A. Lot Standards.**

1. Street Frontage. Lot frontage or easement width required may be reduced from 25 feet to 20 feet.

2. Lot Depth-to-Width Ratio. Lot depth-to-width ratio may exceed standards otherwise permitted.

3. Other Lot Dimensions. Other required lot dimensions, such as lot width, may be reduced without limit.

4. Rounding Up Credit for "Partial" Lots. Where the maximum number of lots allowed is a fraction, the number of lots allowed may be rounded (with decimals 0.5 or over rounded up). For example, where zoning allows 10.8 lots, the applicant may round up to 11 lots. Lot sizes within the development may be reduced by up to 25 percent in order to attain the partial lot.

5. ~~Multi-Unit~~Multifamily Density Bonus. ~~Multi-unit~~ Multifamily residential developments may increase the allowed number of units by up to five percent beyond the maximum density otherwise allowed in the zone.

6. Minimum Lot Size. Minimum lot sizes may be reduced as follows:

- a. R-2: reduce from 3,000 square feet to 2,500 square feet.
- b. R-3: reduce from 3,000 square feet to 1,500 square feet.
- c. R-P: reduce from 3,000 square feet to 2,500 square feet.

**B. Site Design Standards.**

1. Side Yard Setback. Side yard setback may be reduced to three feet.

2. Front Yard Setback. Front yard setbacks may be reduced to 10 feet.

3. Coverage. Lot coverage, parking coverage or combined coverage may be increased an additional 10 percent beyond the applicable standard (for example, from 30 percent to 40 percent).

C. Street and Sidewalk Standards.

1. Sidewalk Location. Sidewalks may be constructed on one side only of local streets.

2. Sidewalk Type. Curb-side sidewalks, six feet in width, may be constructed on local streets, eliminating required planter strips.

3. Street Width. Subject to fire marshal and city engineer approval, street width may be reduced to 28 feet with parking on both sides where, in their determination, adequate emergency access, large vehicle access, and parking can be maintained.

4. Right-of-Way Width. Right-of-way width may be reduced, depending upon the street/planter strip/sidewalk configuration. In no case shall the right-of-way width be less than 38 feet.

**SECTION 12: Newberg Development Code Section 15.242.020 shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology.*

**15.405.010 Lot area – Lot areas per dwelling unit.**

A. In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code:

1. In the R-1 district, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict. The average size of lots in a subdivision intended for single-family development shall not exceed 10,000 square feet.

2. In the R-2, R-3, and RP districts, each lot or development site shall have a minimum area of 3,000 square feet or as may be established by a subdistrict. In the R-2 and R-P districts, the average size of lots in a subdivision intended for single-family development shall not exceed 5,000 square feet.

3. In the AI, AR, C-1, C-2, and C-3 districts, each lot or development site shall have a minimum area of 5,000 square feet or as may be established by a subdistrict.

4. In the M-1, M-2 and M-3 districts, each lot or development site shall have a minimum area of 20,000 square feet.

5. Institutional districts shall have a minimum size of five contiguous acres in order to create a large enough campus to support institutional uses; however, additions to the district may be made in increments of any size.

6. Within the commercial zoning district(s) of the riverfront overlay subdistrict, there is no minimum lot size required, provided the other standards of this code can be met.

**B. Lot or Development Site Area per Dwelling Unit.**

1. In the R-1 district, there shall be a minimum of 5,000 square feet per dwelling unit.

2. In the R-2, AR, and R-P districts, there shall be a minimum of 3,000 square feet of lot or development site area per dwelling unit. In the R-2 and R-P districts, lots or development sites in excess of 15,000 square feet used for multiple single-family, duplex or ~~multiple-family~~ multifamily dwellings shall be developed at a minimum of one dwelling per 5,000 square feet lot area.

3. In the R-3 district, there shall be a minimum of 1,500 square feet of lot or development site area per dwelling unit. Lots or development sites in excess of 15,000 square feet used for multiple single-family, duplex or ~~multiple-family~~ multifamily dwellings shall be developed at a minimum of one dwelling per 2,500 square feet lot area.

C. In calculating lot area for this section, lot area does not include land within public or private streets. In calculating lot area for maximum lot area/minimum density requirements, lot area does not include land within stream corridors, land reserved for public parks or open spaces, commons buildings, land for preservation of natural, scenic, or historic resources, land on slopes exceeding 15 percent or for avoidance of identified natural hazards, land in shared access easements, public walkways, or entirely used for utilities, land held in reserve in accordance with a future development plan, or land for uses not appurtenant to the residence.

D. Lot size averaging is allowed for any subdivision. Some lots may be under the minimum lot size required in the zone where the subdivision is located, as long as the average size of all lots is at least the minimum lot size.

**SECTION 13: Newberg Development Code Section 15.410.050 shall be amended as follows:**

<i>This amendment in this section is simply to insure consistent terminology.</i>
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**15.410.050 Special setback requirements to planned rights-of-way.**

**A. Yard Requirements for Property Abutting Partial or Future Street Rights-of-Way.**

1. Except as provided in subsection (A)(2) of this section, no building shall be erected on a lot which abuts a street having only a portion of its required width dedicated, unless the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street width plus the width and/or depths of the yards required on the lot by this code.

2. Where a comprehensive plan street design or a future street plan exists, the placement of buildings and the establishment of yards where required by this code shall relate to the future street boundaries as determined by said plans.

B. Planned Street Right-of-Way Widths. Planned street right-of-way widths are established as indicated in subsection (C) of this section for the various categories of streets shown in the transportation system plan.

C. A lot or parcel of land in any district adjoining a street for which the planned right-of-way width and alignment has been determined shall have a building setback line equal to the yard required in the district, plus a distance of:

1. Fifty feet from and parallel with the centerline of expressways.
2. Thirty-five feet from and parallel with the centerline of major and minor arterials.
3. Thirty feet from and parallel with the centerline of ~~multiple-family~~multifamily, commercial and industrial streets and single-family collector streets.
4. Thirty feet from and parallel with the centerline of single-family local streets.
5. Twenty-five feet from and parallel with the centerline of single-family hillside, cul-de-sacs and local streets which will never be extended more than 2,400 feet in length and which will have a relatively even division of traffic to two or more exits.

Exceptions to the above five classifications are shown in the transportation system plan.

D. The centerline of planned streets shall be either the officially surveyed centerline or a centerline as on a precise plan. In the event of conflict between the two, the latter-described line shall prevail. In all other cases, a line midway between properties abutting the right-of-way shall be the centerline for the purposes of this code.

**SECTION 14: Newberg Development Code Section 15.420.020 shall be amended as follows:**

<i>This amendment in this section is simply to insure consistent terminology.</i>
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**15.420.020 Landscaping and amenities in public rights-of-way.**

The following standards are intended to create attractive streetscapes and inviting pedestrian spaces. A review body may require any of the following landscaping and amenities to be placed in abutting public rights-of-way as part of ~~multiple dwelling~~multifamily, commercial, industrial, or institutional design reviews, or for subdivisions and planned unit developments. In addition, any entity improving existing rights-of-way should consider including these elements in the project. A decision to include any amenity shall be based on comprehensive plan guidelines, pedestrian volumes in the area, and the nature of surrounding development.



A. Pedestrian Space Landscaping. Pedestrian spaces shall include all sidewalks and medians used for pedestrian refuge. Spaces near sidewalks shall provide plant material for cooling and dust control, and street furniture for comfort and safety, such as benches, waste receptacles and pedestrian-scale lighting. These spaces should be designed for short-term as well as long-term use. Elements of pedestrian spaces shall not obstruct sightlines and shall adhere to any other required city safety measures. Medians used for pedestrian refuge shall be designed for short-term use only with plant material for cooling and dust control, and pedestrian-scale lighting. The design of these spaces shall facilitate safe pedestrian crossing with lighting and accent paving to delineate a safe crossing zone visually clear to motorists and pedestrians alike.

1. Street trees planted in pedestrian spaces shall be planted according to NMC 15.420.010(B)(4).

2. Pedestrian spaces shall have low (two and one-half feet) shrubs and ground covers for safety purposes, enhancing visibility and discouraging criminal activity.

a. Plantings shall be 90 percent evergreen year-round, provide seasonal interest with fall color or blooms, and at maturity maintain growth within the planting area (refer to plant material matrix below).

b. Plant placement shall also adhere to clear sight line requirements as well as any other relevant city safety measures.

3. Pedestrian-scale lighting shall be installed along sidewalks and in medians used for pedestrian refuge.

a. Pole lights as well as bollard lighting may be specified; however, the amount and type of pedestrian activity during evening hours, e.g., transit stops, nighttime service districts, shall ultimately determine the type of fixture chosen.

b. Luminaire styles shall match the area/district theme of existing luminaires and shall not conflict with existing building or roadway lights causing glare.

c. Lighting heights and styles shall be chosen to prevent glare and to designate a clear and safe path and limit opportunities for vandalism (see Appendix A, Figure 17, Typical Pedestrian Space Layouts).

d. Lighting shall be placed near the curb to provide maximum illumination for spaces furthest from building illumination. Spacing shall correspond to that of the street trees to prevent tree foliage from blocking light.

4. Street furniture such as benches and waste receptacles shall be provided for spaces near sidewalks only.

a. Furniture should be sited in areas with the heaviest pedestrian activity, such as downtown, shopping districts, and shopping centers.

b. Benches should be arranged to facilitate conversation between individuals with L-shaped arrangements and should face the area focal point, such as shops, fountains, plazas, and should divert attention away from nearby traffic.

5. Paving and curb cuts shall facilitate safe pedestrian crossing and meet all ADA requirements for accessibility.

B. Planting Strip Landscaping. All planting strips shall be landscaped. Planting strips provide a physical and psychological buffer for pedestrians from traffic with plant material that reduces heat and dust, creating a more comfortable pedestrian environment. Planting strips shall have different arrangements and combinations of plant materials according to the frequency of on-street parking (see Appendix A, Figures 18 and 19).

1. Planting strips which do not have adjacent parking shall have a combination of ground covers, low (two and one-half feet) shrubs and trees. Planting strips adjacent to frequently used on-street parking, as defined by city staff, shall only have trees protected by tree grates, and planting strips adjacent to infrequently used on-street parking shall be planted with ground cover as well as trees (see Appendix A, Figures 18 and 19, Typical Planting Strip Landscaping). District themes or corridor themes linking individual districts should be followed utilizing a unifying plant characteristic, e.g., bloom color, habit, or fall color. When specifying thematic plant material, monocultures should be avoided, particularly those species susceptible to disease.

2. Street trees shall be provided in all planting strips as provided in NMC 15.420.010(B)(4).

a. Planting strips without adjacent parking or with infrequent adjacent parking shall have street trees in conjunction with ground covers and/or shrubs.

b. Planting strips with adjacent parking used frequently shall have only street trees protected by tree grates.

3. Shrubs and ground covers shall be provided in planting strips without adjacent parking with low (two and one-half feet) planting masses to enhance visibility, discourage criminal activity, and provide a physical as well as psychological buffer from passing traffic.

a. Plantings shall be 90 percent evergreen year-round, provide seasonal interest with fall color or blooms and at maturity maintain growth within the planting area.

b. Ground cover able to endure infrequent foot traffic shall be used in combination with street trees for planting strips with adjacent occasional parking (refer to plant material matrix below).

c. All plant placement shall adhere to clear sight line requirements as well as any other relevant city safety measures.

C. Maintenance. All landscapes shall be maintained for the duration of the planting to encourage health of plant material as well as public health and safety. All street trees and shrubs shall be pruned to maintain health and structure of the plant material for public safety purposes.

D. Exception. In the AI airport industrial district and AR airport residential district, no landscape or amenities except for grass are required for any area within 50 feet of aircraft operation areas including aircraft parking areas, taxiways, clear areas, safety areas, object-free areas, and the runway.

**SECTION 15: Newberg Development Code Section 15.440.010 shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology and references.*

**15.440.010 Required off-street parking.**

A. Off-street parking shall be provided on the development site for all R-1, C-1, M-1, M-2 and M-3 zones. In all other zones, the required parking shall be on the development site or within 400 feet of the development site which the parking is required to serve. All required parking must be under the same ownership as the development site served except through special covenant agreements as approved by the city attorney, which bind the parking to the development site.

B. Off-street parking is not required in the C-3 district, except for:

1. Dwelling units ~~as noted in NMC 15.316.020~~ meeting the requirements noted in NMC 15.305.020.

2. New development which is either immediately adjacent to a residential district or separated by nothing but an alley.

C. Within the C-4 district, the minimum number of required off-street parking spaces shall be 50 percent of the number required by NMC 15.440.030, except that no reduction is permitted for residential uses.

**SECTION 16: Newberg Development Code Section 15.440.030 shall be amended as follows:**

*This amendment in this section is simply to insure consistent terminology.*

**15.440.030 Parking spaces required.**

Use	Minimum Parking Spaces Required
Residential Types	

Use	Minimum Parking Spaces Required
Residential Types	
Dwelling, <del>multiple</del> <u>multifamily</u> and multiple single-family dwellings on a single lot	

**SECTION 17: The following shall be added as Newberg Development Code  
Chapter 15.445, Article VII:**

**Article VII. Vacation Rental Homes**

**15.445.300 Application and purpose**

These standards apply to a and single-family dwelling unit that is used, rented or occupied for periods of less than 30 days, or is available, advertised, or listed by an agent as available for use, rent for occupancy for periods of less than 30 days. The purpose is to maintain the peace, quiet, traffic patterns, and property maintenance typical for the residential neighborhood.

**15.445.310 Where allowed**

Vacation rental homes are permitted in areas shown on Chapter 15.305. The vacation rental home must be a structure approved for occupancy as a single-family dwelling unit.

**15.445.320 Registration required**

Prior to use or advertising for use of a dwelling as a vacation rental home, the owner or operator shall register the vacation rental home with the city on forms provided by the director. The registration shall include such information required by the director, including the name and contact information for the owner, operator and a local contact.

**15.445.330 Standards**

A. The vacation rental home shall provide a minimum of two parking spaces on the site that are available for use of the rental occupants.

B. The applicant shall provide for regular refuse collection.

C. The vacation rental home may not be occupied by more than two rental occupants per bedroom, up to a maximum of 15 people.

D. The premises of the vacation rental home may not include any occupied recreational vehicle, trailer, tent or temporary shelter during the rental occupancy.

**15.445.340 Registration posting**

The applicant shall post the vacation rental home registration within the dwelling adjacent to the front door. At a minimum, the posting will contain the following information:

A. The name of the operator and a telephone number where the operator may be reached.

B. The telephone number for the police department.

- C. The maximum number of occupants permitted to stay in the dwelling.
- D. The standards for the rental occupancy.
- E. The solid waste collection day.

#### **15.445.350 Complaints and revocation of registration**

If the city receives two or more written complaints within a one year period regarding a vacation rental home occupancy, and the issues have not been resolved through the code enforcement officer, the city manager may schedule a hearing to consider revoking the vacation rental home registration. The hearing may be conducted by the city manager, or other such hearings officer as the city manager may appoint for this purpose. The city manager shall notify the owner and operator of the hearing, those submitting written complaints, and may invite others to submit testimony at the hearing. After hearing the facts, the city manager may do any of the following:

- A. Revoke the registration for noncompliance with the standards in this section. If this permit is revoked, the premises may not be used as a vacation rental home for a period of two years, or a period of lesser time as determined by the hearings officer.
- B. Impose additional conditions necessary to fulfill the purpose of this section.
- C. Establish a probationary period to monitor compliance.
- D. Dismiss the complaint.
- E. Refer the matter to the code enforcement officer for citation in municipal court or other appropriate jurisdiction.

The hearings officer's decision may be appealed to the planning commission by the applicant, owner, or person filing the written complaint within 14 calendar days of the date of the decision in the manner provided in NMC 15.100.170.

**SECTION 18: The following shall be added as Newberg Development Code Chapter 15.445, Article VIII:**

#### **Article VIII. Small Scale Food and Beverage Production in Commercial Zones**

##### **15.445.400 Application and purpose**

These standards apply to small scale food and beverage production in commercial zones. These uses are primarily manufacturing, processing and storage facilities but have accessory tasting rooms, dining areas, or retail space. Some types of retail bakeries, wineries, breweries and distilleries fit in this category. The purpose is to allow small scale food and beverage production in commercial zones if the uses can meet certain design standards that will maintain the commercial character of the zone. Larger scale food and beverage production is allowed in certain of Newberg's industrial zones.

15.445.410 Where allowed

Small scale food and beverage production is allowed in the C-2 and C-3 commercial zones if the use meets the development standards listed below. If the use cannot meet the development standards below then it is a conditional use in the C-2 and C-3 commercial zones and would require review by the Planning Commission.

15.445.420 Standards

A. Retail use: At least 25% of the gross floor area must be for retail, dining, or similar customer use, with a minimum of 1,000 square feet.

B. Not next to residential: The site cannot abut a site with residential zoning.

C. Loading area: The site must have a loading area for trucks. This could be a loading dock, an on-site paved loading area, or an adjacent alley.

D. Size limit: The maximum size of the production area is limited to 10,000 square feet.

E. Outdoor storage: Outdoor storage of materials on site is limited to a small (under 400 square feet) fenced and screened area.

15.445.430 Approval

To obtain approval for a small scale food and beverage production use in the C-2 or C-3 commercial zones the applicant must demonstrate compliance with all of the development standards. The application shall be processed as a Type I or II design review procedure, depending on the extent of building remodeling, as regulated by NMC 15.220.020. If the proposed use cannot meet any of the design standards in 15.445.420 then it would require a Type III conditional use permit and design review as regulated by NMC 15.225.

**SECTION 19: The following shall be added as NMC 15.505.060(J):**

J. The planning commission may approve modifications to public street standards for the purpose of ingress or egress to a minimum of three and a maximum of six lots through a conditional use permit.

<i>Comment: This provision moved from NMC 15.225.070(N)</i>
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**SECTION 20: The following shall be added to the definitions in NMC 6.05.010:**

"Hobby kennel" means an accessory use to a single-family dwelling unit where four or more adult dogs are kept by the resident for their own use and enjoyment without compensation. An adult dog is one that has reached the age of six months.

**SECTION 21: NMC 6.05.050 shall be amended as follows:**

**6.05.050 Permit for certain animals and fowl.**

Any person, firm, corporation or association desiring to keep or maintain within the corporate limits of the city any wild or domestic fowl, wild or domestic animals, cats and dogs excepted, or any honeybees, shall apply for a permit from the police department, who shall make an investigation and issue the said permit. Any permit issued may be revoked at any time, either by the police department or by the city council, whenever it shall be made to appear that the maintenance of said fowl, animals or bees interferes with the rights of others in the enjoyment of their property, peace, health and safety. Permits only shall be issued for properties zoned R-1, R-2, or AR.

**SECTION 22: The following shall be added as NMC 6.05.055**

**6.05.055 Hobby kennel.** Any resident desiring to keep or maintain a hobby kennel shall apply for a permit from the police department. The police department shall investigate the suitability of the premises for the kennel, and if found suitable shall issue said permit. Any permit issued may be revoked at any time, either by the police department or by the city council, whenever it shall be made to appear that the maintenance of said hobby kennel interferes with the rights of others in the enjoyment of their property, peace, health and safety.

**SECTION 23: The following shall be added as NMC 6.10.115**

**6.10.115 Hobby kennel.** Any person wishing to keep four or more adult dogs at a residence shall first obtain a permit for a hobby kennel under NMC 6.05.055.

**SECTION 24: The following shall be added as NMC 8.15.052:**

**8.15.052 Disposition of human remains**

No person shall inter human remains except within a cemetery approved for that purpose.

**SECTION 25: Grace period for previously permitted or conditional uses.** Where an applicant demonstrates that a particular use was a permitted or conditional use on a specific property immediately prior to adoption of this ordinance, but that the use is no longer either a permitted or conditional use on that property due to this ordinance, the applicant may establish the use as either a permitted or conditional use, as provided in the prior code, provided the use is legally commenced prior to January 1, 2018.



## FINDINGS

### I. Applicable State Statutes

#### A. ORS 97.460 *Requirements for establishment of cemetery or burial park.*

*(1) A person may not lay out, open up or use any property for cemetery or burial park purposes unless the person:*

- (a) Is the owner of the property;*
  - (b) Has the written consent of the planning commission of the county or city having jurisdiction under ORS 92.042 or, if there is no such commission in such county or city, the governing body of such county or city;*
  - (c) Agrees to maintain records of the disposition of human remains on the property as required by the planning commission or governing body of the county or city having jurisdiction under ORS 92.042; and*
  - (d) Agrees to disclose the disposition of human remains upon sale of the property. Failure to disclose the disposition of human remains does not invalidate the sale of the property.*
- (2) A planning commission of a county or city or, if there is no planning commission in a county or city, the governing body of the county or city, shall provide to the State Mortuary and Cemetery Board a list of the requirements for laying out, opening up or using property in the county or city for cemetery or burial park purposes.*

**Finding:** The amendment requires a conditional use permit for any cemetery. Conditional use permits require planning commission approval, thus meeting the requirement above.

#### B. ORS 197.665-197.667

##### *197.665 Locations of residential homes*

*(1) Residential homes shall be a permitted use in:*

*(a) Any residential zone, including a residential zone which allows a single-family dwelling; and*

*(b) Any commercial zone which allows a single-family dwelling.*

*(2) A city or county may not impose any zoning requirement on the establishment and maintenance of a residential home in a zone described in subsection (1) of this section that is more restrictive than a zoning requirement imposed on a single-family dwelling in the same zone.*

*(3) A city or county may:*

*(a) Allow a residential home in an existing dwelling in any area zoned for farm use, including an exclusive farm use zone established under ORS 215.203;*

*(b) Impose zoning requirements on the establishment of a residential home in areas*

*described in paragraph (a) of this subsection, provided that these requirements are no more restrictive than those imposed on other nonfarm single-family dwellings in the same zone; and*

*(c) Allow a division of land for a residential home in an exclusive farm use zone only as described in ORS 215.263 (9).*

*197.667 - Location of residential facility; application and supporting documentation*

*(1) A residential facility shall be a permitted use in any zone where multifamily residential uses are a permitted use.*

*(2) A residential facility shall be a conditional use in any zone where multifamily residential uses are a conditional use.*

*(3) A city or county may allow a residential facility in a residential zone other than those zones described in subsections (1) and (2) of this section, including a zone where a single-family dwelling is allowed.*

*(4) A city or county may require an applicant proposing to site a residential facility within its jurisdiction to supply the city or county with a copy of the entire application and supporting documentation for state licensing of the facility, except for information which is exempt from public disclosure under ORS 192.410 to 192.505. However, cities and counties shall not require independent proof of the same conditions that have been required by the Department of Human Services under ORS 418.205 to 418.327 for licensing of a residential facility.*

**Finding:** The amendment allows residential care home in residential and commercial zones that allow a single family dwelling on the same terms. The amendment also allows residential care facilities as a permitted or conditional use where multi-family residential uses are a permitted or conditional use.

**C. 657A.440 Application of zoning ordinances to registered or certified family child care homes.**

*(1) A registered or certified family child care home shall be considered a residential use of property for zoning purposes. The registered or certified family child care home shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. A city or county may not enact or enforce zoning ordinances prohibiting the use of a residential dwelling, located in an area zoned for residential or commercial use, as a registered or certified family child care home.*

*(2) A city or county may impose zoning conditions on the establishment and maintenance of a registered or certified family child care home in an area zoned for residential or commercial use if the conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone.*

**Finding:** The amendment allows family child care homes in residential and commercial zones under the same terms as residential dwellings.

## II. Applicable Federal Law

### Religious Land Use and Institutionalized Persons Act (RLUIPA)

*RLUIPA prohibits zoning and landmarking laws that:*

- (1) treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;*
- (2) discriminate against any assemblies or institutions on the basis of religion or religious denomination;*
- (3) totally exclude religious assemblies from a jurisdiction; or*
- (4) unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.*

**Finding:** The changes remove references from the development code that could be construed as not complying with RLUIPA. For example, religious institutions and places of worship are allowed in zones where similar non-religious assemblies are allowed and upon the same terms.

## III. Statewide Planning Goals

### *Goal 2, Part I*

*\*\*\*All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances \*\*\*.*

**Finding:** The changes revise the zoning use tables to take into account changes in circumstances. Public review opportunities have been given through a public workshop, a survey, and public hearings.

## IV. Newberg Comprehensive Plan

### *III. PLAN CLASSIFICATIONS*

*For the purpose of evaluating and eventually implementing the proposed Comprehensive Plan, descriptions of land use classifications are essential. Explanations of the map designations are as follows: {list of plan classifications}*

**Finding:** The amendment makes certain changes that better match the list of permitted and conditional uses in each zone with the purpose of that plan classification and zoning district. For example, the amendment would no longer allow drag strips in residential zones. Retail food production would be allowed in commercial zones as long as it is in keeping with the commercial nature of that zone.

**V. Conclusion:** The proposed development code amendments meet the applicable requirements of state law, state rules, the Statewide Planning Goals, and the Newberg Comprehensive Plan, and should be approved.

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**CITY OF NEWBERG**

P.O. BOX 970

NEWBERG, OR 97132



Attention: Plan Amendment Specialist  
Department of Land Conservation &  
Development  
635 Capitol Street NE, Suite 150  
Salem, Oregon 97301-2540