



Oregon

Theodore R. Kulungoski, 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

10/29/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 004-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Thursday, November 12, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Derrick Tokos, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD

<paa> YA

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DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DEPT OF

OCT 22 2009

**LAND CONSERVATION
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **City of Newport**

Local file number: **5-Z-09**

Date of Adoption: **10/19/09**

Date Mailed: **10/21/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7-27-09

☐ 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".

Complete redraft and consolidation of the City's land use procedures.

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

Conditions of approval, expiration and extension, revocation, and applicability in the event of conflict subsections were added. Cross references were added to the new consolidated procedures.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **Applies citywide**

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
☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-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: **Derrick I. Tokos, AICP**

Phone: **(541) 574-0626** Extension:

Address: **169 SW Coast Highway**

Fax Number: **541-574-0644**

City: **Newport**

Zip: **97365**

E-mail Address: **d.tokos@thecityofnewport.net**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

CITY OF NEWPORT

ORDINANCE NO. 1989

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) TO UPDATE AND CONSOLIDATE LAND
USE PLANNING PROCEDURES**

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains the procedures by which the City reviews and decides upon applications for all land use actions and enacts land use legislation consistent with Chapters 197 and 227 of the Oregon Revised Statutes.
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of these procedures and determined that they need to be revised to clarify ambiguous terms and incorporate changes to statutes. They further determined that decision making procedures should be organized in a manner similar to other jurisdictions and consolidated into a single section of the ordinance (NZO Section 2-6-1 Procedural Requirements). This includes the elimination of the portion of the ordinance that allows the Council to reconsider decisions (NZO Section 2-6-5 Council Review) since such a provision is problematic given the statutory timeline of 120 days within which local governments must render a final decision.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed procedural changes (Newport File No. 5-Z-09) at work sessions in the summer and fall of 2008 and July of 2009. Following a public hearing on September 28, 2009, the Planning Commission voted unanimously to recommend adoption of the proposed amendments.
4. The City Council of the City of Newport held a public hearing on October 19, 2009, regarding the question of the proposed procedural revisions (Newport File No. 5-Z-09), and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
5. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 1308 (as amended) is amended to adopt the revised Procedural Requirements Section as attached in Exhibits "A" and cross references to that section contained in Exhibit "B".

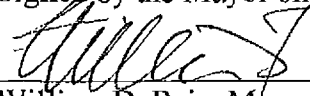
Section 2. Section 2-6-5 of Ordinance No. 1308 (as amended) is repealed in its entirety.

Section 3. This ordinance shall take effect on January 1, 2010.

Date adopted on initial vote and read by title only: October 19, 2009.

Date adopted on final roll call vote: October 19, 2009.

Signed by the Mayor on October 20, 2009.


William D. Bain, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Section 2-6-1. PROCEDURAL REQUIREMENTS

2-6-1.005. Purpose. The purpose of this section is to designate and define the responsibilities of the approving authorities and to set forth the procedural requirements for land use actions requiring public notice before or after the decision.

2-6-1.010. Description of land use actions/decision-making procedures. The following is a description of the four general types of land use actions/decision-making procedures utilized for land use and limited land use decisions within the City of Newport:

- A. **Type I Land Use Actions.** Type I decisions are generally made by the Community Development Director without public notice prior to the decision and without a public hearing. A notice of the decision and an opportunity to appeal is provided. Type I decisions involve limited administrative discretion. An example of a Type I action is an estuarine review. An appeal of a Type I decision is heard by the Planning Commission.
- B. **Type II Land Use Actions.** Type II decisions are generally made by the Community Development Director with public notice and an opportunity to comment but without a public hearing. Type II decisions involve administrative discretion in the application of criteria but usually involve land use actions with limited impacts or involve limited land use decisions. Examples of Type II actions include Conditional Use Permits that generate less than 50 vehicle trips per day and involve property that is less than an acre in size, Property Line Adjustments, Minor Partitions, and Minor Replats. An appeal of a Type II decision by the Community Development Director is heard by the Planning Commission and an appeal of a Type II decision by the Planning Commission is heard by the City Council.
- C. **Type III Land Use Actions.** Type III decisions are considered quasi-judicial land use actions and generally are made by the Planning Commission after public notice and a public hearing. Type III decisions generally use discretionary criteria or involve land use actions with larger impacts than those reviewed under a Type I or Type II procedure. Examples of Type III actions include Conditional Use Permits that generate more than 50 trips per day, variances, preliminary and final planned development applications, interpretation requests, and tentative subdivision plat applications. An appeal of a Type III permit decision is heard by the City Council.
- D. **Type IV Land Use Actions.** Type IV decisions are made by the City Council as either quasi-judicial or legislative decisions involving land use action such as urban growth boundary amendments, Comprehensive Plan map/text amendments, Zoning map/text amendments, annexation requests, planned destination resorts conceptual master plans, and street/plat vacations for which an ordinance must be adopted by the City Council. Most Type IV decisions require a public hearing and recommendation by the Planning Commission prior to the City Council public hearing.

2-6-1.015. Approval Authorities. The approving authority for the various land use actions shall be

as follows:

- A. City Council. A public hearing before the Council is required for all land use actions identified below. Items with an "*" require a public hearing and recommendation from the Planning Commission prior to a City Council hearing.
- (1) Annexations*.
 - (2) Comprehensive Plan amendments (text or map)*.
 - (3) Planned destination resorts—conceptual master plans*.
 - (4) Urban growth boundary amendments*.
 - (5) Vacations (plat or street)*.
 - (6) Withdrawals of territory (public hearing required).
 - (7) Zone ordinance amendments (text or map)*.
 - (8) Any other land use action defined in ordinance as a Type IV decision*.
 - (9) Any land use action seeking to modify any action or conditions on actions above previously approved by the City Council where no other modification process is identified.
 - (10) Appeals of a Planning Commission action.
- B. Planning Commission. A public hearing before the Commission is required for all land use actions identified below. Items with an "*" are subject to Planning Commission review as defined in the section of the ordinance containing the standards for that particular type of land use action. Planning Commission decisions may be appealed to the City Council.
- (1) Conditional use permits.*
 - (2) Nonconforming use changes or expansions.*
 - (3) Planned destination resorts--preliminary and final development plans.*
 - (4) Planned developments.
 - (5) Subdivisions (tentative subdivision plat).
 - (6) Variances.
 - (7) Adjustments.*
 - (8) Design review*
 - (9) Interpretations of provisions of the Comprehensive Plan or Zoning Ordinance that require factual, policy, or legal discretion.
 - (10) Any land use action defined as a Type III decision.
 - (11) Any land use action defined as a Type II decision for which the Planning Commission is the initial approving authority.
 - (12) Any land use action seeking to modify any action or conditions on actions above previously approved by the Planning Commission where no other modification process is identified.
 - (13) Appeals of the Community Development Director decision under a Type I or Type II decision.
- C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an "*" are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action. Decisions made by the Community

Development Director may be appealed to the Planning Commission.

- (1) Conditional use permits.*
- (2) Partitions, minor.
- (3) Replats, minor.
- (4) Estuarine review
- (5) Adjustments.*
- (6) Nonconforming use changes or expansions.*
- (7) Design review *
- (8) Ocean shorelands review
- (9) Any land use action defined as a Type I or Type II decision for which the Community Development Director is the initial approving authority.
- (10) Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development Director where no other modification process is identified.

2-6-1.020. Application for a Land Use Action. All requests for land use actions shall be on forms prescribed by the city. The Community Development Department prepares the application forms and, from time to time, amends the forms as the need arises. At a minimum, the application shall require the following:

- A. Name and address of the applicant.
- B. Name and address of the property owner, if different and applicable.
- C. Legal description of the property, if applicable.
- D. A site plan drawn to scale, if applicable, which shows dimension, property lines, existing buildings, and/or the proposed development.
- E. A Lincoln County Assessor's map showing the subject property and the notification area, if applicable.
- F. Street address of the subject property, if applicable.
- G. Names and addresses of property owners within the notification area, if applicable, as shown in the records of the county assessor.
- H. Signature blocks for the applicant and property owner, if different and applicable.
- I. Comprehensive plan and zoning designation of the subject property, if applicable.
- J. Findings of fact and other information that support the request and address all the applicable criteria.
- K. A current list of the site addresses of any structure in the area proposed to be annexed, if applicable.
- L. Any other information as identified by ordinance for the applicable type of land use action.

2-6-1.025. Submittal of Applications. A property owner, any person with the written approval of the property owner, or the city manager, may apply for a land use action. All documents or evidence in the file on an application shall be available to the public.

- A. Not later than 30 calendar days after receipt, the Community Development Director or designate shall determine whether or not the application is complete and notify the applicant in writing of what information is missing and allow the applicant to submit the missing information. If the Community Development Director or designate does not make a

determination of an incomplete application within 30 days after receipt, the application is deemed complete. Complete applications shall be accepted and processed. If an application is deemed incomplete, the application shall be deemed complete upon receipt by the Community Development Department of:

- (1) All of the missing information;
 - (2) Some of the missing information and written notice that no other information will be provided;
 - (3) Written notice that none of the missing information will be provided.
- B. The completeness determination is not a review of the merit of the application and a positive completeness determination is not a conclusion that the application can be approved.
- C. On the 181st calendar day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under subsection A above and has not submitted:
- (1) All of the missing information;
 - (2) Some of the missing information and written notice that no other information will be provided; or
 - (3) Written notice that none of the missing information will be provided.
- D. For applications subject to ORS 227.178, if the application was complete when first submitted, or if the applicant submits the requested information within 180 calendar days of the date the application was first submitted, approval or denial of the application shall be based on the standards and criteria that were applicable at the time the application was first submitted.
- E. For applications subject to ORS 227.178, the 120 day rule as specified in ORS 227.178 shall be applicable.

2-6-1.030. Notice. The notification requirements in general for the various types of land use actions are identified below. The applicant shall provide city staff with the required names and addresses for notice. Notice of hearings to individual property owners is not required for Type IV legislative actions unless required by state law, such as ORS 227.186 (notice to owners whose property is rezoned). These notification requirements are in addition to any other notice requirements imposed by state law or city ordinance.

A. Information Required in all Notices of Actions and Hearings:

- (1) Name of applicant and property owner (if different), and file number
- (2) Location of property (if applicable).
- (3) Date, time and location for public hearing (for all hearings).
- (4) A brief summary of the nature and substance of the application or decision.
- (5) A list of applicable Newport Ordinance and/or Comprehensive Plan standards and where the applicable criteria may be found.
- (6) A statement that relevant information (decision, staff report, application or other materials) may be reviewed and providing information about where and when they

- can be reviewed, and a statement that copies are available at cost).
- (7) Staff contact information, including name, address and phone number.
- (8) Date the notice is mailed.

B. Information Required in Specific Notices:

- (1) Date of decision (for Type I actions).
- (2) A statement describing the process and the deadline for filing comments (for Type II actions).
- (3) A statement that the failure to raise an issue with sufficient specificity to allow the decision maker an opportunity to respond to the issue precludes raising the issue on appeal, including an appeal to the Land Use Board of Appeals (for Type II and III and quasi-judicial Type IV actions).
- (4) Date, time and location of the hearing (all hearing notices).
- (5) A statement that the staff report will be available for view at no cost and that copies will be available at a reasonable cost at least seven days before the hearing (Type III and Type IV quasi-judicial actions).
- (6) A general description of the hearing process, including the process for submitting written materials (Type III and IV decisions).
- (7) An explanation of the use or uses that could be authorized by the decision (Type IV decisions).

C. Mailing of Notice. Notices of hearings and actions shall be mailed by first class mail at least 15 days prior to the deadline for providing testimony for Type II decisions and at least 20 days prior to the public hearing for Type III and Type IV quasi-judicial actions. Notices shall be mailed to:

- (1) The applicant and property owner (if different).
- (2) Any affected public agency or public/private utility.
- (3) Any person who has requested notice of the hearing or action in writing.
- (4) Any officially recognized neighborhood association whose boundaries include the subject property.
- (5) Record owners of property (as specified in the most recent Lincoln County Assessor's property tax assessment roll):
 - (a) Within 200 feet of the subject property (Type I, Type II and Type III actions).
 - (b) Within 300 feet of the subject property (Type IV quasi-judicial actions).

D. Written Notice for Rezoning of Mobile Home or Manufactured Dwelling Park. If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park, written notice by first class mail shall be given to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application.

E. Written Notice to Airport Owners. Notice of a public hearing on a zone use application shall also be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if:

- (1) The name and address of the airport owner has been provided by the Aeronautics Division of the Department of Transportation to the City Community (Planning) Department; and
- (2) The property subject to the zone use hearing is:
 - (a) Within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport," or
 - (b) Within 10,000 feet of the side or end of the runway of an airport determined by the Department of Transportation to be an "instrument airport."
- (3) Notice of a zone use hearing need not be provided if the permit or zone change would only allow a structure less than 35 feet in height and the property is located outside of the runway "approach surface" as defined by the Department of Transportation.

F. Published Notice. Notice of each Type III and Type IV hearing shall be published at least once in a newspaper of general circulation in the city at least five and no more than 14 days prior to the date set for public hearing.

2-6-1.035. Staff Reports. Staff reports on any quasi-judicial land use action shall be available for public inspection at least seven (7) days prior to the date set for public hearing, and copies will be provided at the city's rate for photocopies.

2-6-1.040. Hearings Procedures (Quasi-Judicial/Limited Land Use). This section shall govern the conduct of quasi-judicial/limited land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of quasi-judicial and limited land use hearings and may be supplemented by any duly adopted rules of procedure.

- A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a land use action, is acting in a quasi-judicial capacity, and all hearings shall be conducted accordingly. Parties to the hearing are entitled to an opportunity to be heard, to present and rebut evidence, and to have a decision based on evidence supported by findings of fact and supporting information. Testimony shall be made with sufficient specificity so as to afford the approving authority and other parties an adequate opportunity to respond to each issue.
- B. Disqualification, Ex Parte Contacts, Bias, Challenges to Participation. Proponents and opponents are entitled to an impartial tribunal that judge land use actions. A proponent or opponent may, therefore, challenge the qualifications of a member of the approving authority to participate in the meeting or decision. A challenge must state with sufficient specificity the facts relied upon by the submitting party relating the person's bias, prejudgment, personal interest, or other facts from which the party has concluded that the member of the approving authority may be unable to participate and make a decision in an impartial manner. Challenges shall be incorporated into the record of the meeting.

- (1) Disqualification. No member of the approving authority shall participate in

discussion of an application or vote on an application for any land use action when any of the following conditions exist:

- (a) Any of the following have a direct or substantial financial interest in the proposal: members of the approving authority or a member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, or household, or there is an actual conflict of interest under state law.
 - (b) The land use action involves a business in which the member is directly associated or has served within the past two (2) years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
 - (c) The member owns property within the area entitled to receive notice of the action.
 - (d) For any other reason, the member has determined that participation in the decision cannot be in an impartial manner.
- (2) Disclosure of Potential Conflict of Interest. Even if an approval authority member chooses to participate, the member shall disclose any potential conflict of interest as required by state law.
- (3) Ex parte Contacts. In quasi-judicial matters, approving authority members shall reveal any ex parte contacts, including site visits. Parties to a hearing shall have the right to rebut the substance of an ex parte contact.
- (4) Challenges. Any person may challenge the participation of a member of the approving authority in a decision-making process. A challenge must state with sufficient specificity the factual and legal basis of the reasons for the challenge.
- (5) Rights of Disqualified Members of the Approving Authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum. A member who represents a personal interest at a meeting may do so only by abstaining from voting on the proposal, vacating the seat on the approving authority, and physically joining the audience, and by making full disclosure of his or her status and position at the time of addressing the approving authority.
- (6) Requalification of Disqualified Members of the Approving Authority. If all members of the approving authority abstain or are disqualified, all members present, after stating their reasons for abstention or disqualification, shall by doing so be requalified unless prohibited by state law and proceed to hear the issues and make a decision.
- (7) Participation in Decision by Absent Member of Approving Authority. A member of

the approving authority absent during the presentation of evidence in a land use action meeting may not participate in the deliberations or final decision regarding the matter of the meeting unless the member has reviewed all the evidence in the record to date, including audio tapes of prior meetings.

- (8) Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a meeting at which there is scheduled a consideration of a land use action, the land use action shall be automatically set over to the next regularly scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.
- (9) Failure to Make a Final Decision on a Quasi-Judicial Land Use Action, Limited Land Use Action, or on Appeal. In the event an approving authority other than the City Council is not able to make a final decision on a quasi-judicial land use action within three meetings after the hearing or record is closed, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public or appeal hearing held. In the event that an approving authority other than the City Council becomes deadlocked through an even split in the approving authority such that a decision cannot be made, the approving authority shall forward the land use action to the next higher review authority for a new public or appeal hearing.

C. Public Hearing Process. This subsection shall govern the conduct of all public hearings.

- (1) Nature of Hearing. All parties participating in a public hearing shall have an opportunity to be heard, to present and rebut evidence, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law. The presiding officer of the approving authority shall have authority to:
 - (a) Regulate the course and decorum of the meeting.
 - (b) Dispose of procedural requests and similar matters.
 - (c) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimony.
 - (d) Question any person appearing, and allow other members to question any such person.
 - (e) Waive the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party substantial rights as provided herein or otherwise by law.
 - (f) Take such other action as authorized by the approving authority to appropriately conduct the hearing.

A ruling of the presiding officer may be challenged by any member of that approving

authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

- (2) Conduct of Participants. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or may exclude from the hearing anyone who:
 - (a) Is disorderly, abusive, or disruptive.
 - (b) Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing.
 - (c) Testifies without first receiving recognition from the presiding officer.
 - (d) Presents irrelevant, immaterial, or repetitious evidence.
- (3) Order of Procedure. The hearing shall proceed in the following manner:
 - (a) Open Public Hearing. The presiding officer shall open the public hearing and announce the nature and purpose of the hearing, identify the applicant, describe the general nature of the proposal, and shall state (or defer to staff to state) the applicable substantive criteria by which the application is being judged. The presiding officer shall also state that testimony and evidence must be directed toward the applicable criteria. In addition, for quasi-judicial land use actions or limited land use actions, the presiding officer shall state that failure to raise an issue with sufficient specificity to afford the approving authority and the parties an opportunity to respond to the issue precludes an appeal based on that issue, including to the Land Use Board of Appeals.
 - (b) Call for Abstentions. The presiding officer shall call for any conflicts of interest, and, if applicable, ex parte contacts, or site visits by members of the approving authority.
 - (c) Call for Objections. The presiding officer shall call for any objections to the approving authority hearing the matter before it.
 - (d) Staff Report. Staff shall present a staff report and any recommendations.
 - (e) Proponents' Presentation. The presiding officer shall call for testimony from the applicant and from any person supporting the application.
 - (f) Opponents' Presentation. The presiding officer shall call for testimony from any person objecting to the application.
 - (g) Rebuttal by Applicant. The presiding officer shall call for rebuttal from the applicant in response to evidence or issues raised by the opponents.
 - (h) Continuance. Review authorities may continue a public hearing or leave a record open to allow for additional testimony. In a quasi-judicial or limited land use action, prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. If the request is made prior to the conclusion of the initial evidentiary hearing, the review authority shall grant the request by either continuing the public hearing or leaving the record open in conformance with the requirements of ORS 197.763.
 - (i) Close Public Hearing. Unless there is a continuance, the presiding officer

shall close the public hearing and state that no further testimony will be received by the approving authority.

- (j) Deliberation by Approving Authority. The approving authority shall consider the testimony and evidence before it in open discussion. The approving authority may ask questions of staff. The approving authority may ask proponents or opponents for clarification on a matter, but if they choose to do so, others must be given opportunity to rebut.
- (k) Decision. Following deliberation, the approving authority shall vote on the matter, including on any conditions of approval to be attached (or in the case of a review and recommendation, any recommended conditions of approval).
- (l) Adoption of Findings of Fact. The approving authority shall adopt findings of fact that support the decision. If there are no findings available to support the decision, staff may prepare findings of fact to be presented at a future meeting. The approving authority may also call for the preparation of findings of fact by the proponent or opponent, or any combination including staff, of each to be presented at a future meeting. The approving authority may also request that findings of fact be presented at a future meeting other than the next regularly scheduled meeting. For hearings that are for a review and recommendation only, no findings of fact are required.
- (m) Final Decision. The decision of the approving authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required.
- (n) Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - (1) Anyone who has made appearance of record (see Section 2-6-1.045); and
 - (2) Anyone who has filed a written request for notice of the approving authority's decision; and
 - (3) Anyone who has requested notice of any appeal hearing.

2-6-1.045. Public Hearings Procedures (Legislative). This section shall govern the conduct of legislative land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of legislative land use hearings and may be supplemented by any duly adopted rules of procedure.

- A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a legislative land use action, is acting in a legislative capacity, and all hearings shall be conducted accordingly.
- B. Disqualification. No member of the approving authority shall participate in discussion of an

application or vote on an application for any land use action when there exists an actual conflict of interest under state law. Potential conflicts of interest under state law shall be disclosed by members of the approving authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum.

- C. Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a meeting at which there is scheduled a consideration of a land use action, the land use action shall be automatically set over to the next regularly scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.
- D. Public Hearing. The public hearing process identified above in 2-6-1.040 (C) for quasi-judicial/limited land use hearings shall be utilized with the following modifications noted for the legislative hearing process to the following subsections of 2-6-1.040 (C)(3):
- (1) Final Decision. The decision of the approving authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required. Unless required by law to do so, the approving authority is not obligated to adopt a final order or ordinance if the approving authority chooses not to adopt a legislative amendment.
 - (2) Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - (a) Anyone who has made appearance of record (see Section 2-6-1.040(B)) and submitted a written request for a notice of decision; and
 - (b) Anyone who has filed a written request for notice of the approving authority's decision.
 - (c) The Department of Land Conservation and Development as required for a post acknowledgement plan amendment.

2-6-1.050. Appeals. Any person with standing may appeal a decision of the approving authority. No person shall have standing to appeal unless the person made an appearance of record in the initial proceeding prior to the close of the public comment period, public hearing, or close of the record. All appeals shall be made no later than 15 calendar days after the date the final order is signed. "Appearance of record" shall mean either appearance in person or in writing. City Council decisions may be appealed to the Oregon Land Use Board of Appeals as provided by state law.

- A. Appeal Document. All appeals shall be signed by the appellant or authorized agent and shall contain:
- (1) An identification of the decision sought to be reviewed, including the date of the

decision.

- (2) A statement demonstrating that the appellant has standing to appeal.
- (3) A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the application shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to city code, an ordinance, statute, or other law, the appeal shall identify the city code, an ordinance, statute, or other legal provision, and state how the applicable provision has been violated. For appeals of a quasi-judicial or limited land use action, a statement demonstrating that the appeal issues were raised with sufficient specificity in the hearing below.

B. Scope of Review. Unless the appeal is heard de novo, the appeal of a decision by a person with standing shall be limited to the specific issues raised during the hearing from which the decision is being appealed. Approving authorities may hear appeals on the record of the initial hearing (if a previous hearing was held) or de novo. An appeal from a land use action that had a previous hearing shall be held on the record unless the approving authority determines that a de novo hearing is warranted.

(1) When de novo hearing is warranted.

(a) Where a land use decision was made without a public hearing, the appeal shall be heard de novo.

(b) Where a land use decision was made following a public hearing, the approving authority may consider holding the appeal de novo for any of the following reasons:

(1) The appellant(s) have documented as part of a petition to appeal a significant procedural error that resulted in a substantive harm to their ability to participate in the initial hearing that could be cured by a subsequent de novo hearing.

(2) The appeal of the decision is part of a package of land use requests submitted by the applicant that include other land use requests that will be considered in a new public hearing before the review authority and it would be more efficient to conduct the appeal de novo in conjunction with the hearings for the other land use requests.

(3) A significant number of appeals have been filed such that the efficiency of the appeal process would be better served through a de novo hearing.

(2) Procedure for determining when de novo hearing is warranted on appeal from a land use decision made following a public hearing:

(a) Following the end of the appeal period for which an appeal has been filed with a request for a de novo hearing, the matter of the de novo appeal hearing request shall be scheduled at the next available approving authority meeting for consideration.

(b) The appeal authority shall review the submitted request for de novo hearing along with any staff and applicant (if other than appellant) input on the matter and make a decision.

C. Notice of Appeal. Notice of the appeal hearing shall be given to the applicant, the applicant's authorized agent (if any), and to interested persons. Interested persons are:

- (1) Anyone who has made appearance of record.
- (2) Anyone who has filed a written request for notice of the approving authority's decision; and
- (3) Anyone who has requested notice of any appeal hearing.

D. Appeal Hearings. The following is a minimum set of procedures for appeal hearings and may be supplemented by any duly adopted rules of procedure.

(1) Appeal hearings on the record shall be conducted as follows:

(a) A record of hearing shall be prepared by the Community Development Department containing the written material involving the approval through the filing of the appeal. A transcript of the hearing shall be prepared and included with the record.

(b) Following preparation of the record, a date for the on-the-record hearing shall be set by the Community Development Department and notice of the date of the appeal hearing shall be given.

(c) The appellant(s) shall have seven calendar days from the date the record is available to supplement the petition for appeal by identifying items in the record in support of the appeal ("support brief").

(d) The applicant(s) (if other than appellant) and City staff shall have seven calendar days from the date the appellant support brief is due to respond ("response brief").

(e) The appeal hearing will allow for comments by City staff, argument from appellant(s), applicant(s) (if other than appellant), rebuttal, and questions and deliberation by the approving authority.

(2) De novo appeal hearings may be held by the appeals approving authority. In cases of a de novo hearing, the same procedure shall be used as was employed in the initial hearing.

(3) Ability for City Council to deny appeal without hearing. The City Council may deny an appeal from a Planning Commission decision where the Planning Commission has held a de novo hearing following an appeal of a decision of the Community Development Director for land use actions subject to the 120 day rule in ORS 227.178. If the City Council votes to deny an appeal, the Council shall adopt the Planning Commission Final Order as the final decision of the City.

E. Appeals Decision. Upon review of the appeal, the appeals approving authority may, by final

order, affirm, reverse, or modify in whole or part the initial decision. When the appeals approving authority modifies or reverses a decision of the initial approving authority, the final order shall set forth findings and reasons for the change. The appeals approving authority may also remand the matter back to the initial approving authority for further consideration or clarification. A notice of the decision made by the approving authority shall be given to:

- (1) Anyone who made an appearance of record; and
- (2) Anyone who filed a written request for notice of the approving authority's decision; and
- (3) Anyone who requested notice of any appeal hearing.

F. **Judicial Finality.** No permit shall be issued, no permit or approval shall be considered valid, and no project may proceed, based on any land use decision of the City of Newport for a land use action processed under this section of the Ordinance, until such time as all rights of appeal from such decision have been exhausted and such decision is "judicially final." A decision shall be considered judicially final at such time as any applicable period for the appeal of such decision shall have expired without initiation of an appeal, or any properly initiated appeal shall have been exhausted, whichever is later. However, this shall not preclude the making of an application for, or the conduct of proceedings to consider, the issuance of a permit or approval based on such land use decision.

2-6-1.055. Decision Time. Once a complete application is received by the City of Newport, the city shall take final action, including resolution of all local appeals, on applications subject to ORS 227.178 within 120 days unless otherwise waived by the applicant in accordance with state requirements.

2-6-1.060. Conditions of Approval. All city decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be met.

2-6-1.065. Consolidated Procedure. Any applicant for a land use action may apply at one time for all related land use actions. Where different land use actions requiring different review authorities are submitted, decisions on applications made by a lower level review authority may be made contingent on the applicant receiving approval from the higher level review authority. Alternatively, the higher level reviewing authority may take action on all of the related land use actions. Fees for land use actions that are consolidated are set forth as established by resolution of the City Council for land use fees.

2-6-1.070. Expiration and Extension of Decision. Expiration or extension of all land use decisions shall be as follows:

- A. All land use decisions shall be void if within eighteen (18) months of the date of the final decision:
- (1) All necessary building permit(s) have not been issued, if required; or
 - (2) In cases where building permit(s) are not required, the authorized use has been established.
- B. Notwithstanding Subsection (A) of this section, the approval authority may set forth in the

written decision, specific instances or time periods when a permit expires.

- C. The Community Development Department may extend any approved decision for a period of six months; provided the permit holder,
 - (1) Submits a written request for an extension of time prior to expiration of the approval period;
 - (2) Has applied for all necessary additional approvals or permits required as a condition of the land use permit;
 - (3) There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- D. The granting of an extension pursuant to this section is an administrative action, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.
- E. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.
- F. If a permit decision is appealed beyond the jurisdiction of the City, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the City. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

2-6-1.075. Revocation of Decisions. In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the City's approval, the City may institute a revocation proceeding under this section.

- A. Type I, Type II and Type III decisions may be revoked or modified if the Planning Commission determines a substantial likelihood that any of the following situations exists:
 - (1) One or more conditions of the approval have not been implemented or have been violated; or
 - (2) The activities of the use, or the use itself, are substantially different from what was approved or represented by the applicant.
- B. A revocation shall be processed as a Type III decision. The Community Development Department or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the City's approval.
- C. Effect of revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the Planning Commission, unless the decision provides otherwise. In the event the Planning Commission's decision on a revocation request is appealed, the requirement to terminate the use shall be stayed pending a final, unappealed decision.

2-6-1.080. Applicability in the Event of Conflicts. The provisions of this section supercede all conflicting provisions in the Newport Zoning Ordinance.

Exhibit B to Ordinance No. 1989, Amending the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) to Update and Consolidate Land Use Planning Procedures

(Note: Additional language to be added is double underlined, deleted is in ~~strikeout~~.)

SECTION	PROPOSED TEXT
2-2-1.030 (¶ 2, sentence 1) Commercial and Industrial Districts	If a use cannot be assigned a three or four digit (non-classifiable establishments) SIC code, the Director of Community Planning & Development shall hold a public hearing consistent with the administrative section of this Ordinance- <u>a Type III Land Use Action decision process shall be applied consistent with Section 2-6-1, Procedural Requirements.</u> Such an action shall be considered an interpretation of the Zoning Ordinance.
2-2-13.010 (¶ 2, sentence 1) Management Unit Districts	<u>Permitted With Standards(P):</u> Permitted only after a case-by-case review of the proposed use and issuance of an estuarine use permit in accordance with the provisions of Section 2-1.015(C)(5) [sic] <u>2-2-13.014 of this section and a Type I Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u> A use which is permitted with standards shall require the following findings:
2-2-13.010 (¶ 3, sentence 1) Management Unit Districts	<u>Conditional (C):</u> Permitted only after a case-by-case review of the proposed use and issuance of a conditional use permit in accordance with the provisions of Section 2-5-3, <u>Conditional Uses, and a Type III Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u> A conditional use shall require the following findings:
2-2-13.014.A (¶ 1, sentences 1 & 2) Estuarine Use Review Procedure	Upon receipt of an application or a public notice from a state or federal agency for a regulated activity, the Planning Department <u>Community Development Director</u> shall review the proposed use or activity for consistency with applicable Estuarine Use Standards set forth in this Section 2-2-13 of the Zoning Ordinance of the City of Newport <u>and apply the appropriate Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u> <u>In cases where all applicable Estuarine Use Standards of Sections 2-2-13.015 through 2-2-13.090 have been met for a proposed Permitted(P) activity, a Type I Land Use Action decision process shall be applied.</u> In cases of conditional uses, the Planning Commission shall review the application consistent with Section 2. [sic] <u>In cases of a proposed Conditional (C) activity, a Type III Land Use Action decision process will apply in addition to the requirements for Conditional Uses provided by Section 2-5-3.</u>

SECTION	PROPOSED TEXT
<p>2-2-26.035 (¶ 1, sentence 1) Recreational Vehicle Parks</p> <p>2-2-26.035 cont.,</p>	<p>Recreational vehicle parks are allowed conditionally in an R-4, zone and conditionally if publicly owned in the P-1 <u>and P-2 zoning districts</u> (excluding those P-1 properties within the Historic Nye Beach Design Review District), and P-2 <u>zoning districts subject to subsections A through D below and in accordance with Section 2-6-1, Procedural Requirements. Recreational vehicle parks are allowed</u> and outright in C-1, C-2, C-3, I-1, and I-2 <u>zoning districts</u> (excluding those C-2 properties within the Historic Nye Beach Design Review District), C-3, I-1, and I-2 <u>zoning districts subject to the following: subject to subsections A through D as follows:</u></p>
<p>2-2-29.025.A.(1) (Sentences 1 and 2) Temporary Structures for Other Than Special Events</p>	<p>The permit, if approved, shall be issued for a period not to exceed one (1) year, or for any other period established by the Planning Commission <u>Community Development Director</u>. Upon like application and approval, the permit may be renewed for <u>up to an</u> additional one (1) year. Under no circumstances shall any permit...</p>
<p>2-2-29.025.B (Sentences 3, 4 and 5) Temporary Structures for Other Than Special Events</p>	<p>Once accepted, the request will be forward [sic] to the Planning Commission for review. The Planning Commission <u>The Community Development Director</u> must find that the request complies with the criteria established in subsection 2-2-29.020(3) and (4) in order to approve the permit. The Planning Commission <u>and may attach conditions that it finds necessary to comply with the conditions contained in subsections 2-2-29.020(3) and (4) and the purpose of this section.</u></p>
<p>2-2-29.030 (Sentence 1) Permits Not Transferable Unless Approved</p>	<p>Permits authorized by this section are not transferable to another person or location unless approved by the Planning Commission <u>Community Development Director</u>.</p>
<p>2-2-29.040 (Sentence 1) Revocation of Permit</p>	<p>Any permit authorized under this section may be revoked by the Planning Commission <u>Community Development Director</u> after notification to the applicant. The permit may be revoked for the following reasons:</p>
<p>2-3-1.015 (Sentences 1 & 2) Special Exceptions to Building Height Limitations</p>	<p>Any person seeking a special exception to the building height limitations of this Ordinance shall do so by applying for an <u>adjustment or variance as described in Section 2-5-2, of this Ordinance, and consistent with Section 2-6-1, Procedural Requirements.</u></p>

SECTION	PROPOSED TEXT
2-3-2.025.A (§ 1, sentence 2) General Exceptions to Required Yard-Front Yard	In no case, however, shall the required depth be decreased by more than 25% without an <u>adjustment or variance hearing</u> by the Planning Commission. <u>In such a case, a Type III Land Use Action decision process shall be applied consistent with Section 2-6-1, Procedural Requirements, in addition to the requirements of Section 2-5-2, Adjustments and Variances.</u>
2-3-3.010 (§ 1, sentence 2) General Exceptions to Lot Size Requirements	Substandard lots in R-3 and R-4 zones may be occupied by multi-family dwellings not exceeding the density limitations for that zone provided in Table A, as provided in Section 2-3-4 herein below, but only upon allowance of a conditional use for such purpose as herein provided <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-3-6.040 (§ 1, sentence 2) Shared Parking	Shared parking plans shall be reviewed and approved by the Planning Commission using the criteria and process for a Type I conditional use permit as contained in Section 2-5-3, in <u>accordance with the provisions of Section 2-5-3, Conditional Uses, and a Type III Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u>
2-3-6.065 (Sentence 1) Variances	Variances to this section may be approved as a Type I variance as per Section 2-5-2 of this Ordinance <u>in accordance with the provisions of Section 2-5-2, Adjustments and Variances, and a Type III Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u>
2-4-1.010.A (Sentence 2) Residential Uses in Nonresidential Zoning Districts	For floors other than street grade, residences are allowed subject to the issuance of a conditional use permit <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-4-1.010.B (Sentences 4 & 7) Residential Uses in Nonresidential Zoning Districts	For floors other than street grade, residences are allowed subject to the issuance of a conditional use permit <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u> For commercial buildings in other areas within a C-2 zone, residences are prohibited at street grade. More than one residence per lot is allowed upon the issuance of a conditional use permit <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>

SECTION	PROPOSED TEXT
2-4-5.050 (Sentence 1) Landscaping-Variances	Variances to the requirements of this section shall be subject to the processes and criteria contained in Section 2-5-2, <u>of this Ordinance Adjustments and Variances, and Section 2-6-1, Procedural Requirements.</u>
2-4-6 Flood Hazard Area	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-4-8.060.A (¶ 1, sentence 4) Airport Restricted Area-Permits	No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 2-5-2 <u>of this Ordinance Adjustments and Variances, and Section 2-6-1, Procedural Requirements.</u>
2-4-8.060.D (¶ 1, insert a new sentence 4) Airport Restricted Area-Variances	Such variances shall be allowed where it is duly found...and will be in accordance with the spirit of this Ordinance. <u>Variances will be approved in accordance with Section 2-5-2, Adjustments and Variances, and consistent with Section 2-6-1, Procedural Requirements.</u>
2-4-8.090 (¶ 1, sentence 6) Airport Restricted Area-Approach Zone	While manufacturing is generally quite compatible, such uses are “ conditional ” <u>subject to the issuance of a conditional use permit in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements,</u> and shall be reviewed for potential operations hazards, electrical interference, high intensity lighting, bird attractions, smoke, glare, or other interferences.
2-4-8.090 (¶ 1, sentence 10) Airport Restricted Area-Approach Zone	Recreational uses as conditional uses are allowed <u>subject to the issuance of a conditional use permit in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements,</u> (excluding public assembly and other high intensity uses which are prohibited).
2-4-8.120 (¶ 1, add a new sentence 6) Airport Restricted Area-Substantial Noise Impact (Ldn 65+)Zones	Non-noise sensitive industry...and open spaces are allowed uses. Uses mentioned as conditional in this section are allowed <u>subject to the issuance of a conditional use permit in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-4-8.130.C (insert new sentence 3) Airport Restricted Area-Airport Development Zone	Conditional Uses under “E” of this section shall follow the <u>provisions of Section 2-5-3, Conditional Uses, and shall be decided using the appropriate Land Use Action decision process as provided by Section 2-6-1, Procedural Requirements.</u>

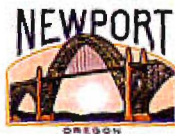
SECTION	PROPOSED TEXT
2-4-9.015 (Sentence 1) Historic Buildings-Hearing Required	<u>In addition to the provisions of this Section 2-4-9, the The Planning Commission shall conduct a public hearing utilizing the Conditional Use Section 2-5-3 of this Ordinance in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-4-14.013 (sentence 1) Iron Mountain Impact Area-Conditional Uses Permitted in an I-1/"Light Industrial" Zoning District	The following uses are permitted subject to the criteria and standards of the underlying zone, the criteria and standards contained in Section 2-4-14.025 of this Ordinance, and the issuance of a conditional use permit as required in Section 2-5-3 of this Ordinance ; <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-4-16.030.A(2) (sentence 1) Design Review-Special Zoning Standards	Any building with any exterior dimension of 100 feet or more shall be required to obtain a Type I Conditional Use p ermit as outlined in Section 2-5-3 of this ordinance <u>and using a Type III Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements.</u>
2-4-16.030.A(10)(a) (sentence 1) Design Review-Special Zoning Standards	For Section 2-2-1.025 (Residential Uses), uses permitted outright in the C-2 zone...area allowed in the R-4 zone subject to the issuance of a conditional use permit <u>in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements,</u> and subject to the limitation that the use not exceed a total of a 1,000 square feet of gross floor area.
2-14-16.040.A(1) (sentence 1) Design Review-Review Authority	For any project that requires design review under the design guidelines or in conjunction with a Type I Conditional Use, a Type I V variance, or any other type of land use permit for which the Planning Commission is the initial approval authority <u>a Type III Land Use Action decision process is required,</u> the Planning Commission shall be the review authority for both the design review permit and the land use permit if the applicant chooses to consolidate the applications into one request as allowed under Section 2-6-1.055-2-6-1, Procedural Requirements.
2-14-16.040.C (sentence 3) Design Review-Review Authority	Appeals are conducted in accordance with the zoning ordinance section on appeals found in Section 2-6-1.045-2-6-1, Procedural Requirements.
2-4-16.050.B(4) (sentence 3) Design Review-Procedural Requirements	The review process at the Commission shall be by public hearing and shall follow the requirements of Section 2-6-1.040 (Public Hearing Procedures) <u>shall follow a Type III Land Use Action decision process consistent with Section 2-6-1, Procedural</u>

SECTION	PROPOSED TEXT
	<u>Requirements.</u>
2-5-1.025.A (sentence 2) Nonconforming Uses, Lots, & Structures-Extension, Expansion...	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-1.030 (sentence 2) Nonconforming Uses, Lots, & Structures-Extension, Expansion...	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-1.040 (sentence 1) Nonconforming Uses, Lots, & Structures-Change	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-1.045 (sentence 7) Nonconforming Uses, Lots, & Structures-Repair and Maintenance	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-2 Variances	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-3 Conditional Uses	[Cross-references in this section have been addressed under a separate proposed zoning text amendment]
2-5-4.050 (sentences 1 and 2) Planned Developments- Application for Submission	An applicant shall include with the application for approval of a planned development a preliminary development plan as described in Subsection .050 <u>Section 2-5-4.055</u> . Except as otherwise described in this Section, the procedure for review and approval of a planned development is the same as contained in Section 2-5-3 for other conditional uses. <u>Shall be in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</u>
2-5-7.040 (¶ 2, 3, and 4) Ocean Shorelands Overlay Zone	Upon acceptance of the application, the Planning Director <u>Community development Department</u> shall process the request in accordance with a Type II Land Use Action decision process consistent with Section 2-6-1, Procedural Requirements. <u>notify property owners within 100 feet of the subject property for comment. Any party subject to the notice may file written comments within a 20 day period and those comments will be considered in the decision making process.</u>

SECTION	PROPOSED TEXT
	<p>If the Planning Director finds that the request complies with the standards, then the application shall be approved. The Planning Director may attach conditions to the approval to further the intent of this section or the Comprehensive Plan. If additional findings or data or reasonable conditions cannot bring the application into compliance with this section, the application shall be denied.</p> <p>After reaching a decision, the Planning Director shall notify the applicant and any person filing comments in writing of such decision. Any party given notice of the decision that is aggrieved by such decision shall have the right to appeal such decision to the Planning Commission of the City of Newport in the time and manner provided for appeals of the decision for conditional use permits. If notice of appeal, together with the required filing fee, is not filed with the City of Newport within such period of time, the decision of the Planning Director shall become final.</p>
<p>2-5-8.015 (sentence 1) Dredged Material Disposal Sites-Information Required</p>	<p>Any person proposing development on an identified dredged material disposal site that would preclude its use for dredged material disposal shall submit a conditional use application to the city in accordance with the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.-</p>
<p>2-5-9.040(D) (sentence 1) Planned Destination Resort-Procedure for Approval-CMP</p>	<p>The Planning Commission and City Council shall consider the CMP at their respective public hearings pursuant to Section 2-6-3 2-6-1, Procedural Requirements, except that notice shall be...</p>
<p>2-5-9.055(G) (sentence 1) Planned Destination Resort-Procedure for Approval-PDP</p>	<p>Any person having standing (as defined in Section 2-6-1.040(B)) may appeal the decision of the Planning Commission in the manner provided in Section 2-6-1.045...</p>
<p>2-5-9.060(D) (sentence 1) Planned Destination Resort-Procedure for Modification-PDP</p>	<p>Any person having standing (as defined in Section 2-6-1.040(B)) may appeal the decision of the Planning Commission in the manner provided in Section 2-6-1.045</p>
<p>2-5-9.070(D) Planned Destination Resort-Procedure for Approval-FDP</p>	<p>Any person having standing (as defined in Section 2-6-1.040(B)) may appeal the decision of the Planning Commission in the manner provided in Section 2-6-1.045.</p>
<p>2-5-10.005 (sentence 1) Assisted Living Facilities in R-2 Zones-Applicability</p>	<p>The requirements for an assisted living facility in an R-2 zone set forth in this section are in addition to the conditional use procedures and standards of Section 2-5-3 the provisions of Section 2-5-3, Conditional Uses, and Section 2-6-1, Procedural Requirements.</p>



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City of Newport
169 SW Coast Hwy
Newport, OR 97365

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