



Oregon

Theodore R. Kubongski, 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

11/17/2009

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 009-09

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: Friday, November 27, 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.

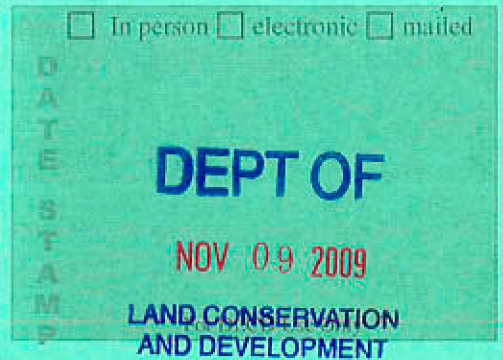
Cc: Derrick I. Tokos, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Matt Spangler, DLCD Coastal-Newport Regional Representative
Bill Holmstrom, DLCD Transportation Planner

<paa> YA

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



Jurisdiction: **City of Newport**

Local file number: **7-Z-09**

Date of Adoption: **11/3/09**

Date Mailed: **11/6/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 8/26/09

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".
Comprehensive update of the Conditional Use section of the Newport Zoning Ordinance.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City of Newport**

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 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"/> |

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

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

None.

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. 1991

**AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) TO UPDATE THE TERMS,
CRITERIA, AND PROCEDURES FOR CONDITIONAL USES**

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) requires that certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review analysis. Such uses are considered "conditional uses."
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of the Conditional Use section of the Zoning Ordinance (NZO Section 2-5-3) and determined that the terms and criteria need to be clarified; unneeded definitions should be deleted; remaining definitions should be consolidated into the definitions section of the Zoning Ordinance or combined with criteria; and that the procedures should be clarified and redundant procedures deleted.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed changes to the Conditional Use section (Newport File No. 7-Z-09) at work sessions on April 13, 2009, June 8, 2009, and July 27, 2009. Following a public hearing on October 12, 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 November 2, 2009, regarding the question of the proposed revisions (Newport File No. 7-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. Section 2-5-3 of Ordinance No. 1308 (as amended), Conditional Uses, is deleted in its entirety and replaced with a new Section as shown in Exhibit "A".

Section 2. The following definition is added to Section 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions:

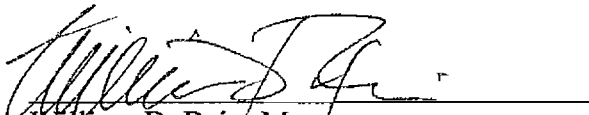
Public Facilities. Sanitary sewer, water, streets (including sidewalks), storm water, and electricity.

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

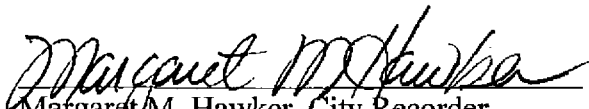
Date adopted on initial vote and read by title only: November 2, 2009

Date adopted on final roll call vote: November 2, 2009

Signed by the Mayor on November 3, 2009.


William D. Bain, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Section 2-5-3. CONDITIONAL USES*

2-5-3.005. Purpose. There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses.” It is the purpose of this section to establish the terms, criteria, and procedures by which Conditional Uses may be permitted, enlarged or altered. It is further the purpose of this section to supplement the other sections of this Code and the Comprehensive Plan. Nothing in this section guarantees that a Conditional Use permit will be issued.

2-5-3.010. General Provisions.

A. Application for approval of a Conditional Use may be processed and authorized under a Type II or a Type III decision making procedure as provided by Section 2-6-1, Procedural Requirements, as well as the provisions of this Section.

B. A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the approval authority.

C. The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationship between the proposal and the approval criteria listed in subsection 2-5-3.025, in the underlying zoning district, and any applicable overlay zones.

D. An application shall be approved if it satisfies the applicable criteria or can be made to meet the criteria through imposition of reasonable conditions of approval. If findings or data or reasonable conditions cannot bring an application into compliance with the criteria, then the application shall be denied.

2-5-3.015. Approval Authority.

A. Application for approval of a Conditional Use shall be processed and authorized using a Type II decision-making procedure where specifically identified as eligible for Type II review elsewhere in this Code or when characterized by the following:

(1) The proposed use generates less than 50 additional trips per day as determined in the document entitled Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and

(2) Involves a piece(s) of property that is less than one (1) acre in size. For an application involving a condominium unit, the determination of the size of the property is based on the condominium common property and not the individual unit.

B. All other applications for Conditional Uses shall be processed and authorized as a Type III decision-making procedure.

2-5-3.020. Application Submittal Requirements. Requests for a Conditional Use Permit shall be filed with the Community Development Department on forms prescribed for this purpose. In addition to a land use application form with the information required in Section 2-6-1.020, the petition shall be accompanied by:

- A. A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the applicant's lot; and
- B. A signing plan (if applicable); and
- C. Building elevations (if the building is existing, photographs documenting the building elevations are sufficient if no exterior changes are proposed); and
- D. The applicant's proposed findings of fact; and
- E. A list of affected property owners described in Section 2-6-1.030(C); and
- F. For commercial activities that are conditional, a proposed plan of business operation.

2-5-3.025. Criteria for Approval of a Conditional Use. The approval authority must find that the application complies with the following criteria:

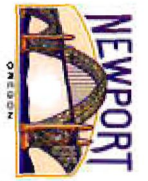
- A. The public facilities can adequately accommodate the proposed use.
- B. The request complies with the requirements of the underlying zone or overlay zone.
- C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.

For the purpose of this criterion "adverse impact" is the potential adverse physical impact of a proposed Conditional Use including, but not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality

- D. A proposed building or building modification is consistent with the overall development character of the area with regard to building size, and height, considering both existing buildings and potential buildings allowable as uses permitted outright.



UNITED STATES POSTAGE
FIRST CLASS
\$ 01.390
02 1A
000431 8124 NOV 08 2009
MAILED FROM ZIP CODE 97365



City of Newport
169 SW Coast Hwy
Newport, OR 97365



ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL ST NE STE 150
SALEM OR 97301-2540