



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

01/31/2011

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 006-10

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, February 11, 2011

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: Derrick Tokos, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

JAN 24 2011

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

This Form 2 must be mailed to DLCD within **5-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

Jurisdiction: **City of Newport**

Local file number: **4-Z-10**

Date of Adoption: **1/18/11**

Date Mailed: **1/21/11**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/14/10

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".

This package of code updates includes revisions to Newport Zoning Ordinance (NZO) Sections 2-4-2, Accessory Uses and Structures; 2-4-13, Home Occupations; and 2-6-8, Enforcement. Changes to the accessory use rules clarify the process for determining when a structure is accessory to a primary use, provide for placement of accessory structures on parcels or lots adjacent to the primary use, and allow for larger structures if they meet setbacks. Updates to the home occupation rules eliminated outdated requirements, clarify standards, and add revocation provisions if standards are not followed. Updates to enforcement language clarify that code enforcement staff may inspect properties at reasonable times.

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

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**

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:

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@newportoregon.gov**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 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) of 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.

CITY OF NEWPORT

ORDINANCE NO. 2011

AN ORDINANCE AMENDING THE NEWPORT ZONING ORDINANCE
(ORDINANCE NO. 1308, AS AMENDED) RELATING TO ACCESSORY USES,
HOME OCCUPATIONS, AND ENFORCEMENT

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains criteria that apply to construction of accessory structures, the establishment of home occupations and, enforcement of the land use regulations inside the City of Newport. These criteria are found in Section 2-4-2 (“Accessory Uses and Structures”), Section 2-4-13 (“Home Occupations”) and Section 2-6-8 (“Enforcement”) of the Ordinance.
2. The City of Newport Planning Commission and its Citizens Advisory Committee completed a comprehensive review of these code sections and determined that amendments are needed to clarify the process for determining when a structure is accessory to a primary use, provide for placement of accessory structures on parcels or lots adjacent to a primary use, and allow for larger structures if they meet setbacks. Updates to the home occupation rules eliminate outdated requirements, clarify standards and add revocation provisions if standards are not followed. Changes to enforcement language clarify that code enforcement staff may inspect properties at reasonable times.
3. The City of Newport Planning Commission and its Citizens Advisory Committee further find that it is necessary to revise the definition for Accessory Structures and Uses contained in Section 2-1-1.101 (“Definitions”) of the Zoning Ordinance to clarify terminology and reflect that accessory uses can be located on adjacent commonly owner parcels. Sub-Section 2-3-2.025(B)(1) (“General Exceptions to Required Yards”) should also be amended to include a cross-reference clarifying circumstances when accessory buildings can encroach into required rear yard setbacks.
4. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed the above changes (File No. 4-Z-10) at work sessions on August 23, 2010, September 13, 2010, October 11, 2010, and October 25, 2010. Following a public hearing on December 13, 2010, the Planning Commission voted to recommend adoption of the proposed amendments.
5. The City Council held a public hearing on January 18, 2011 regarding the question of the proposed revisions and voted in favor of their adoption after considering the recommendation of the Planning Commission and evidence and argument in the record.
6. 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 2-1-1.101 of Ordinance No. 1308 (as amended), Definitions, is amended as follows:

“2-1-1.101. Definitions. As used in this Ordinance, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Accessory Structure or Use. A structure or use incidental and subordinate to the ~~main~~ primary use of the property and which is located on the same lot or parcel ~~as with the main primary use or is on a contiguous lot or parcel under the same ownership.~~ Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.”

Section 2. Section 2-3-2.025(B)(1) of Ordinance No. 1308 (as amended), General Exceptions to Required Yard, is amended as follows:

“B. Projections Into Yards. Every part of a required yard shall be open from the ground to the sky, unobstructed except for the following:

- (1) Accessory building in the rear yard as provided in Section 2-4-2.”

Section 3. Section 2-4-2 of Ordinance No. 1308 (as amended), Accessory Uses, is repealed in its entirety and replaced with a new Section as shown in Exhibit "A".

Section 4. Section 2-4-13 of Ordinance No. 1308 (as amended), Home Occupations, is repealed in its entirety and replaced with a new Section as shown in Exhibit "B".

Section 5. Section 2-6-8 of Ordinance No. 1308 (as amended), Enforcement, is repealed in its entirety and replaced with the following:

“Section 2-6-8. ENFORCEMENT

- A. The City Manager shall have the power and duty to enforce the provisions of this Ordinance. An appeal from a ruling of the City Manager shall be made to the City Planning Commission.
- B. Any use authorized under the provisions of this ordinance shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with ordinance standards or conditions of approval.”

Section 6. This ordinance shall take effect 30 days after passage.

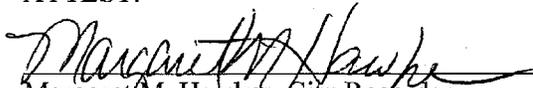
Date adopted and read by title only: 1/19/2011

Signed by the Mayor on 1/19/, 2011.



Mark McConnell, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Section 2-4-2. ACCESSORY USES AND STRUCTURES

2-4-2.005. Purpose. The provisions of this section are intended to establish the relationship between primary and accessory structures or uses and to specify development criteria for accessory structures or uses.

2-4-2.010. General Provisions.

- A. Accessory uses and structures are those of a nature customarily incidental and subordinate to the primary use of a property. Typical accessory structures include detached garages, sheds, workshops, greenhouses, gazebos and similar structures not intended for habitation by people. The Community Development Director, or the Director's designee, shall determine if a proposed accessory use is customarily associated with, and subordinate to, a primary use and may at his/her discretion elect to defer the determination to the Planning Commission. A determination by the Planning Commission shall be processed as a code interpretation pursuant to Section 2-6-1, Procedural Requirements.
- B. An accessory use or structure shall be subject to, and comply with, the same requirements that apply to the primary use except as provided in this section.

2-4-2.015. Accessory Use or Structure on a Separate Lot or Parcel. An accessory use or structure may be located on a lot or parcel that is separate from the primary use provided:

- A. The lot or parcel upon which the accessory use or structure is to be located is contiguous to the property containing the primary use; and
- B. The subject lots or parcels are under common ownership and within the same zone district; and
- C. A deed restriction, in a form approved by the City, is recorded stating that the property on which the accessory use or structure is to be located cannot be sold or otherwise transferred separate from the lot or parcel containing the primary use. This restriction shall remain in effect until a primary use is situated on the same lot or parcel as the accessory building or the accessory building is removed.

2-4-2.020. Development Standards.

- A. The maximum floor area of the accessory structure in a residential zoning district shall not exceed 1,500 square feet or 65% of the total floor area of the primary structure, whichever is less.
- B. The maximum height of an accessory building in a residential zoning district shall not exceed that of the primary structure.

Exhibit A to Ordinance No. 2011, Amending Section 2-4-2 of the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) Relating to Accessory Uses and Structures

- C. Accessory buildings shall not extend beyond the required front yard setback lines of adjacent lots or parcels.
- D. Regardless of the setback requirements, a rear yard in a residential zone district may be reduced to five (5) feet for a one-story detached accessory building provided the structure does not exceed 625 square feet in size and 15 feet in height.

Exhibit B to Ordinance No. 2011, Amending Section 2-4-13 of the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) Relating to Home Occupations

Section 2-4-13. HOME OCCUPATIONS*

2-4-13.005. Purpose. The purpose of this section is to allow persons to conduct businesses out of their residences subject to the provisions of this section. It is the intent of this section to:

- A. Ensure the compatibility of home occupations with other uses permitted in the residential districts;
- B. Maintain and preserve the character of residential neighborhoods;
- C. Provide peace, quiet, and domestic tranquility within all residential neighborhoods within the city, and provide freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas; and
- D. Promote the efficient use of public services and facilities by assuring these services are provided to the residential population for which they were planned and constructed, rather than commercial uses.

2-4-13.010. Permitted Uses. It is not the intent of this section to specifically list all the uses that may qualify as a home occupation. Whether or not a use may be permitted as a home occupation shall be based upon the standards contained in Section 2-4-13.015 of this ordinance.

2-4-13.015. Standards. Home occupations shall comply with the following:

- A. The home occupation, including storage, may be carried out in a dwelling and/or an accessory building provided there is no outward appearance of a business being operated on the premises.
- B. The home occupation may be carried on only by the residents of the dwelling in question.
- C. No alteration of the residential appearance of the premises will occur except that which is allowed in the underlying zoning district.
- D. There shall be no display of products visible in any manner from the outside of the dwelling.
- E. The home occupation, including storage, may occupy no more than 25% of the total gross floor area of the structure or structures in which the home occupation is conducted.
- F. Use or storage of hazardous substances is prohibited; except at the consumer commodity level.

Exhibit B to Ordinance No. 2011, Amending Section 2-4-13 of the Newport Zoning Ordinance (Ordinance No. 1308, as Amended) Relating to Home Occupations

- G. Any activity that produces radio, TV or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that can be detected beyond the property line; is prohibited.
- H. The home occupation shall not include repair or assembly of vehicles or equipment with internal combustion engines (e.g. as autos, motorcycles, marine engines, lawn mowers, chain saws, etc.) or of large appliances (e.g. washing machines, dryers, refrigerators, etc.).
- I. Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence, including not more than two business visitors an hour and eight a day.

2-4-13.020. Home Occupation Agreement. Any applicant for a home occupation must sign a Home Occupation Agreement. Such agreement shall be on a form provided by the City and shall, at a minimum, include the standards contained in Section 2-4-13.015. The application shall also provide a floor plan of all structures on the property where the home occupation is to be located. The site plan shall be drawn to scale and shall clearly delineate where the home occupation will be conducted.

2-4-13.025. Business License Required. A business license for the home occupation shall be obtained pursuant to Chapter 4.05 of the Newport Municipal Code.

2-4-13.030. Revocation. Standards listed in this section shall be construed as conditions of approval. Authorization of a home occupation may be revoked by the Planning Commission in the event conditions of approval are not met or the activities of the use, or use itself, are substantially different from what was represented by the applicant. The revocation process shall be as outlined in Section 2-6-1, Procedural Requirements.



City of Newport
169 SW Coast Hwy
Newport, OR 97365



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635 CAPITOL ST NE STE 150
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