



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

March 3, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Newberg Plan Amendment
DLCD File Number 002-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 14, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Jason Locke, DLCD Regional Representative
Cliff Voliva, Dlcd Communications Officer
Barton Brierley, City Of Newberg

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FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

FEB 25 2008

LAND CONSERVATION
AND DEVELOPMENT

**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: **Newberg**

Local file number: **DCA-08-001**

Date of Adoption: **2/19/2008**

Date Mailed: **2/22/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/28/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
The amendment requires new hearings instead of record hearings upon appeal of Planning Commission decisions to the City Council.

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 # 002-08 (16669)

DLCD file No. _____

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

Local Contact: **Barton Brierley**

Phone: **(503) 537-1212** Extension:

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

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

City: **Newberg**

Zip: **97132-**

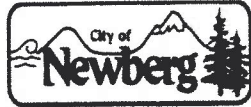
E-mail Address:

barton.brierley@ci.newberg.or.us

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, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@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 **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.



ORDINANCE NO. 2008-2691

AN ORDINANCE AMENDING THE DEVELOPMENT CODE TO REQUIRE NEW HEARINGS ON CERTAIN APPEALS TO THE CITY COUNCIL

RECITALS:

1. The Newberg Development Code currently requires all appeals of Planning Commission decisions to the City Council to be heard as record hearings.
2. To allow greater public input, the City Council desires to hear appeals of Type III decisions as new hearings rather than record hearings.
3. The City has one appeal pending. In order to be able to hear this appeal at a new hearing, the Council declares an emergency.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

*Note: added language is shown in double underline
Removed language is shown in*

1. **Newberg Development Code § 151.057, Scope of Review (for appeals), shall be amended as follows:**

§ 151.057 SCOPE OF REVIEW.

(A) The initial appeal of a Type I, Type II, or Type III decision shall be a new hearing. Any second appeal to the City Council of a Type I or Type II decision shall be a record hearing unless the applicant requests a new hearing and waives the 120-day time limit for processing applications in accordance with § 151.041 and state statutes. Appeal of a Type II decision must be based on the written comments raised prior to the expiration notice comment period pursuant to § 151.072. Appeal of a Type III decision made by the Planning Commission must be based on the written or oral testimony and evidence raised in the record at the Planning Commission.

(B) Type III actions that require an ordinance or City Council order to be adopted in order to become effective shall be reviewed by the City Council as a new hearing. The City Council shall receive the recommendation from the Planning Commission to the City Council on these actions. The action will not be considered final for the purpose of appeals, until a final decision is rendered by the City Council.

(C) The record shall include:

- (1) A factual report prepared by the Director.
- (2) All exhibits, material, pleadings, memoranda, stipulations, and motions submitted by any party and reviewed or considered in reaching the decision under review.
- (3) The minutes of the hearing and a detailed summary of the evidence.

(D) For a record hearing on a second appeal of a Type I or Type II decision, no new testimony or evidence may be presented. Written argument will be allowed only from parties who testified at the prior

evidentiary hearings. Written argument must be limited to evidence already in the record. No oral argument will be allowed at the Council level.

2. Newberg Development Code § 151.055 (C), Appeal Procedures (Type III), shall be amended as follows:

§ 151.055 APPEAL PROCEDURES.

(C) *Type III.* An appeal of a Type III decision by the Planning Commission may be appealed within 14 calendar days of the date of the Planning Commission's written decision. Appeals may be made only by an affected party, Type III.

3. Newberg Development Code § 151.046, Decision, Findings and Order – Type III and IV, shall be amended as follows:

§ 151.046 DECISION, FINDINGS AND ORDER - TYPE III AND IV.

(A) Following the hearing for review of a development permit, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse, or remand the decision that is on appeal.

(B) The hearing body shall prepare written findings of fact and an order which shall include:

(1) A statement of the applicable criteria against which the proposal was tested.

(2) A statement of the facts that the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.

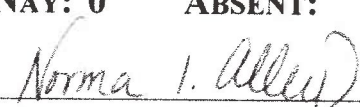
(3) The reasons for a conclusion to approve or deny.

(4) The decision to approve the proposed change with or without conditions; or, the decision to deny the proposed change.

(C) The Director shall notify the applicant and others entitled to notice of the disposition of the application within 5 calendar days of the written decision. This shall include the applicant, anyone providing written testimony prior to the close of the hearing, anyone providing oral testimony at the hearing, or anyone requesting such notice. The notice shall include a description of the item, indicate the date that the decision will take effect and describe the right of appeal pursuant to §§ 151.055 et seq.


➤ **EFFECTIVE DATE:** An emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council.

ADOPTED by the City Council of the City of Newberg, Oregon, this 19th day of February, 2008, by the following votes: **AYE: 7** **NAY: 0** **ABSENT:** **ABSTAIN:**



Norma I. Alley, City Recorder

ATTEST by the Mayor this 21st day of February, 2008.



Bob Andrews, Mayor

LEGISLATIVE HISTORY

The current unamended policy was recommended by the Planning Commission at their July 10, 2003 hearing. This proposed amendment has not been referred to the Planning Commission for recommendation.

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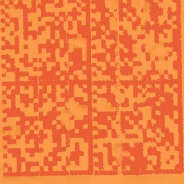
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US POSTAGE

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DEPT OF

FEB 25 2008

**LAND CONSERVATION
AND DEVELOPMENT**

Dept. of Land Conservation & Dev.
635 Capitol St. NE, Suite 150
Salem, Oregon 97301-2540
Attn: Plan Amendment Specialist

3, OR 97132