



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 06, 2016
Jurisdiction: City of Newport
Local file no.: 4-CP-14
DLCD file no.: 001-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/04/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 40 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 001-16 {24268}

Received: 5/4/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Newport

Local file no.: **4-CP-14**

Date of adoption: 4/18/16

Date sent: 5/4/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 2/3/16

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Minor refinements were made to the policies.

Local contact (name and title): Derrick I. Tokos, AICP

Phone: 541-574-0626

E-mail: d.tokos@newportoregon.gov

Street address: 169 SW Coast Hwy

City: Newport

Zip: 97365-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Amendments to the Public Facilities Element of the Newport Comprehensive Plan to provide guidance for when and how Local Improvement Districts are to be used to fund public facilities. A general policy listing common tools for financing public improvements has also been added.

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: None.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Copy of Ordinance No. 2093 containing the new policy language.

CITY OF NEWPORT
ORDINANCE NO. 2093

AN ORDINANCE AMENDING ORDINANCE NO. 1621
(AS AMENDED) TO AMEND THE GOALS AND POLICIES SECTION OF THE PUBLIC
FACILITIES ELEMENT OF THE COMPREHENSIVE PLAN
RELATING TO LOCAL IMPROVEMENT DISTRICTS
(Newport File No. 4-CP-14)

Summary of Findings:

1. On December 14, 2015 the Newport Planning Commission initiated amendments to the "Public Facilities" element of the Newport Comprehensive Plan that put in place policies to provide guidance for when and how Local Improvement District's (LIDs) are to be used to fund public facilities.
2. Developing strategies to secure financing to pay for planned transportation system improvements is critical for implementation of a Transportation System Plan (TSP). Unfortunately, Newport's TSP provides little in the way of direction or guidance for how the City should fund transportation improvements. Nonetheless, the City has been creative in developing local funding sources, including urban renewal, local gas and transient room taxes, and the City actively leverages available state and federal resources. These resources fall well short of being able to adequately fund needed transportation projects.
3. The City has been hesitant to explore the use of LIDs to fund transportation projects because of the perceived complexity of implementing an LID program and the real concern that if done poorly, an LID program could compromise the City's overall financial position. There is also a general lack of understanding amongst the public, staff, and policy makers about what is involved in forming an LID and how this financing tool can be a cost effective solution to funding transportation projects. Consequently, Newport has only basic LID enabling legislation on its books and has not initiated an LID in many years.
4. In June of 2014 the City of Newport secured a Transportation Growth Management (TGM) Grant from the Oregon Department of Transportation (ODOT) to develop model policies, a "Cookbook" of LID Implementation Strategies, model code, case studies, and public informational materials to clarify how LIDs can be effectively used to fund local government transportation projects.
5. An intergovernmental agreement between the City of Newport and ODOT was executed in April of 2015 and ODOT subsequently hired the consulting firm FCS Group to assist with the project.
6. A Technical Advisory Committee (TAC) of internal and external stakeholders was formed to assist the consultant, and the TAC met to review draft LID policies, model code, implementation strategies and other deliverables on July 6, 2015, September 14, 2015,

January 11, 2016 and February 17, 2016. The Planning Commission met in work session to review and comment on these same materials on November 9, 2015, November 23, 2015, December 14, 2015, and initiated draft amendments to the "Goals and Policies" section of the "Public Facilities" element of the Newport Comprehensive Plan on December 14, 2015.

7. The proposed amendments to the "Public Facilities" element of the Newport Comprehensive Plan are consistent with applicable Statewide Planning Goals in that the changes:
 - a. Have been developed and vetted with a Technical Advisory Committee and the City of Newport Planning Commission consistent with Statewide Planning Goal 1, Public Involvement; and
 - b. Provide policy direction for identifying transportation and other public infrastructure projects that are good candidates for LID funding, limitations and risks inherent to this funding tool, and factors policy makers should consider to mitigate such risks, which will promote fact based decision making consistent with Statewide Planning Goal 2, Land Use Planning; and
 - c. Complement economic development strategies contained in the Comprehensive Plan that call for the City to develop strategies for funding street and related infrastructure needed to support economic opportunity sites, consistent with Statewide Planning Goal 9; and
 - d. Support the provision of needed housing within the Newport city limits by providing an additional method of financing all or a part of the infrastructure needed to support the construction of new units or to improve the quality of the existing housing stock, consistent with Statewide Planning Goal 10; and
 - e. Provide for the timely, orderly, and efficient arrangement of public facilities and services by expanding the range of financing tools available to fund needed infrastructure improvements, as encouraged by Statewide Planning Goal 11, Public Facilities and Services.
8. No other Statewide Planning Goals are applicable to the proposed changes to the "Public Facilities" element of the Newport Comprehensive Plan.
9. While the work to develop the proposed amendments was driven by the need to expand the City's toolkit of funding options for planned transportation improvements, they are relevant to other public facility needs, such as sewer, water, and storm drainage infrastructure. Therefore, it is appropriate that they be structured in the Comprehensive Plan such that they are applicable to the full range of public infrastructure services provided by the City.
10. The Planning Commission held a public hearing on March 28, 2016, and voted unanimously to recommend adoption of the amendments.

11. The City Council held a public hearing on April 18, 2016 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.
12. 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.

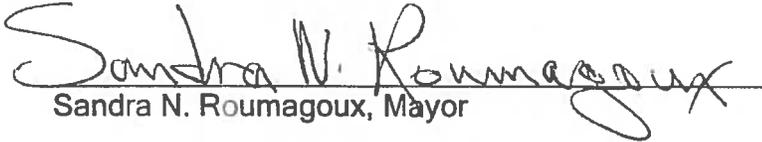
THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The Goals and Policies section of the Public Facilities element of Ordinance No. 1621 (as amended) is amended as illustrated in Exhibit "A".

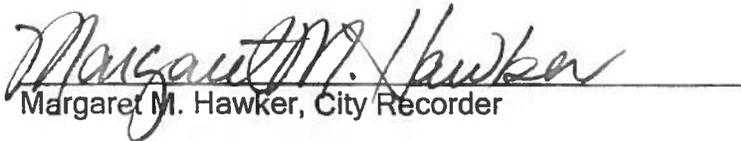
Section 2. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: April 18, 2016

Signed by the Mayor on April 19, 2016.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

GOALS AND POLICIES PUBLIC FACILITIES ELEMENT

GENERAL

Goal: To assure adequate planning for public facilities to meet the changing needs of the City of Newport urbanizable area.

Policy 1: The city shall develop and maintain public facilities master plans (by reference incorporated herein). These facility plans should include generalized descriptions of existing facilities operation and maintenance needs, future facilities needed to serve the urbanizable area, and rough estimates of projected costs, timing, and probable funding mechanisms. Public facilities should be designed and developed consistent with the various master plans.

Policy 2: In order to assure the orderly and cost efficient extension of public facilities, the city shall use the public facilities master plans in the capital improvement planning.

Policy 3: The city shall work with other providers of public facilities to facilitate coordinated development.

Policy 4: Essential public services should be available to a site or can be provided to a site with sufficient capacity to serve the property before it can receive development approval from the city. For purposes of this policy, essential services shall mean:

- > Sanitary Sewers
- > Water
- > Storm Drainage
- > Streets

Development may be permitted for parcels without the essential services if:

- > The proposed development is consistent with the Comprehensive Plan; and
- > The property owner enters into an agreement, that runs with the land and is therefore binding upon future owners, that the property will connect to the essential service when it is reasonably available; and
- > The property owner signs an irrevocable consent to annex if outside the city limits and/or agrees to participate in a local improvement district for the essential service.

Policy 5: Upon the annexation of territory to the City of Newport, the city will be the provider of water and sewer service except as specified to the contrary in an urban service agreement or other intergovernmental agreement.

Policy 6: Local Improvement Districts (LIDs) should be evaluated as a means of funding public facilities where the construction of such facilities is expected to enhance the value of properties that are adjacent or proximate to the planned improvements.

For LIDs in developed residential areas, the aggregate assessment amount within a prospective LID should be no more than 10% of the assessed value of properties within the boundaries of the proposed district. The aggregate assessed value may be higher for other types of LIDs, such as developer initiated districts; however, in no case should it exceed 50% of the assessed value of the affected property.

When considering a new LID, the City should proceed with preparing an engineer's report that sets out the likely cost of constructing the improvement.

Consideration should be given to bundling LID projects with other capital projects that the City secures bond funds to construct. For an LID to proceed, it must have a reasonable chance of being self-financing, with adequate reserves to ensure that payments are made on bonds/loans regardless of the property-owners' repayment.

If an LID project is considered by the City Engineer to be a partial improvement (less than ultimate planned design), the City should require that interim improvements conform to current City standards in a manner which will allow for completion of the total facility at such time that resources are available.

New LIDs may be initiated by petition or resolution of the City Council.

Formation of an LID by Petition

The City Council shall evaluate new LIDs proposed by petition to determine if City resources should be expended to formulate an engineer's report. Only those projects with substantial public support should proceed. An LID petition that includes non-remonstrance agreements and/or petitions of support from property owners representing 75% of the benefited area shall be presumed to have substantial public support.

If an LID petition seeks to leverage other funding to achieve 100% of the project costs then the City Council should consider the likelihood of whether or not those funds will be available within the timeframe that they would need to be committed for construction.

When the City receives petitions for multiple LIDs, priority should be given to prospective LIDs with the highest level of documented support, as measured by recorded non-remonstrance agreements and/or petitions in the benefit area in question.

The cost of completing the engineer's report should be included in the total LID assessment. The City should update its fee schedule to include a non-refundable LID Application Fee to be paid by LID petitioner(s) for petition-initiated LIDs.

City Council Initiated LIDs

The City Council on its own motion or upon recommendation by the City Manager may initiate an LID without a petition. In doing so the City Council shall consider the following factors:

- Project purpose and need, including whether or not the improvement addresses an immediate health and safety risk or if it has been identified as a priority improvement in an adopted public facility plan.
- Whether the improvement will address existing deficient infrastructure that is chronically failing.
- Capital cost of the improvement.
- Project cost contingencies and related construction risk factors, such as the need to acquire new public right-of-way, unique construction challenges, or environmental issues.
- Nature of the area benefited, including its existing condition.
- The amount of potential non-LID funding that is expected to be leveraged by the LID, if any. This may include, but is not limited to, federal or state grants, sewer or other types of service charges, urban renewal funds, revenue or general obligation bonds, and reimbursement districts.
- Percentage of properties within the benefit area that have prerecorded non-remonstrance agreements or have owners that favor formation of an LID.

When considering multiple City-initiated LIDs, priority should be given to the LID that addresses the greatest number of factors identified above.

Policy 7: The City may use various means to finance, in whole or in part, improvements to public services in order to maintain public facility service levels and to carryout improvements identified in public facility plans, and adopted city goals and policies. This includes but is not limited to consideration of federal or state grants; water, sewer, storm drainage and other types of service charges; urban renewal funds, revenue or general obligation bonds, local improvement districts, and reimbursement districts.

WATER

Goal: To provide the City of Newport with a high quality water system that will supply residents and businesses with adequate quantities for consumption and fire protection.

Policy 1: The city will comply with state and federal laws concerning water quality and will take appropriate steps consistent with those laws to protect and maintain drinking water source areas.

Implementation Measure 1: The City shall work to establish a source water protection buffer in the Big Creek Watershed. The City declares the Big Creek Watershed a public facility consistent with the definition of Public Facility Systems in OAR 660-011-0005(7)(a)(A). The City will work to establish a source water protection buffer that is consistent with the findings of the Oregon Department of Environmental Quality / Oregon Health Department source water assessment report (PWS #4100566).

Policy 2: The water system will be designed and developed to satisfy the water demand of the various users under normal and predictable daily and seasonal patterns of use, and at the same time provide sufficient supplies for most emergency situations.

Policy 3: The city may extend water service to any property within the city's urban growth boundary, and may extend water service beyond the urban growth boundary if the extension of service is not inconsistent with an urban service agreement or other intergovernmental agreement. The city may require a consent to annexation as a condition of providing water service outside the city limits.

Policy 4: The city will acquire lands within the municipal watershed when available or necessary to protect water quality or improve its water system.

Policy 5: The city will reconstruct its municipal raw water storage and distribution facilities to address identified structural deficiencies to Big Creek Dam #1 and Big Creek Dam #2.

Implementation Measure 1: The city shall conduct necessary and appropriate engineering studies to determine the safest and most cost-effective approach to ensure the integrity of the municipal water supply. The studies shall identify the cost and timing of needed capital projects to address identified structural deficiencies and comply with Policy 2 of this section.

Implementation Measure 2: The city shall explore financing mechanisms, and prepare a financing plan to fund construction needed to resolve the structural deficiencies by 2030.

Implementation Measure 3: The city shall use data and findings from Implementation Measures 1 and 2 of this section to update the Water Supply section of the Public Facilities element of the Newport Comprehensive Plan to reflect new information as a result of the engineering and finance studies.

WASTEWATER

Goal: To provide a wastewater collection and treatment system with sufficient capacity to meet the present and future needs of the Newport urbanizable area in compliance with State and Federal regulations.

Policy 1: On-site sewer systems shall not be allowed unless the city's sanitary sewer system is greater than 250 feet away. In any case, a subsurface permit from the Lincoln County Sanitarian must be obtained prior to any development that will rely on an on-site sewer system.

Policy 2: City wastewater services may be extended to any property within the urban growth boundary. Except for the very limited circumstances allowed by state law and regulations, the city will not generally provide wastewater services outside the urban growth boundary. The city may require a consent to annexation as a condition of providing wastewater service outside the city limits. Nothing in this policy obligates the City to provide wastewater services outside of the city limits. For property outside the city limits but within the urban growth boundary, wastewater services may be provided at the City's discretion only for:

- a) residentially zoned lands as allowed by county zoning without full services, and
- b) commercial and industrial zoned lands to existing lawful uses as of the date (9/4/07) of this amendment.

Policy 3: The city will design and develop the wastewater collection and treatment system in a way that addresses the demands of the various users under normal and predictable daily and seasonal patterns of use.

TRANSPORTATION

Transportation Goals and Policies repealed by Ordinance No. 1802 (January 4, 1999).

STORM WATER DRAINAGE

Goal: To provide a storm water drainage system with sufficient capacity to meet the present and future needs of the Newport urbanizable area.

Policy 1: The city will comply with state and federal laws concerning water quality.

Policy 2: The city will use existing, natural drainage systems to the greatest extent possible.

AIRPORT

Goal: To provide for the aviation needs of the City of Newport and Lincoln County.

Policy 1: The city will ensure through zoning and subdivision ordinance provisions that the airport will be able to operate safely and efficiently.

Policy 2: The city will cooperate with state and federal agencies in the development of the airport.

PORT OF NEWPORT*

Goal: To collaborate with the Port of Newport on the implementation of its Capital Improvement Plan.

Policy 1: The city will coordinate with the Port of Newport when planning to upgrade or construct new public facilities within the Port District and will seek to partner on capital projects to achieve mutually beneficial outcomes.

Policy 2: The city will assist the Port of Newport in its efforts to secure outside funding for capital projects.

**Subsection added by Ordinance No. 2056 (September 5, 2013).*