

Planning Commissioner Training Registration

Name(s): _____

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\$50 per person: _____ \$50

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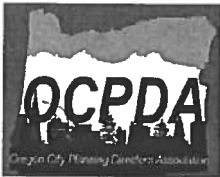
Registration Due by Sept. 15th
Mail Check & Form to:

OCPSA

c/o League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301

Questions?

Call: 541-766-6572 or E-mail:
Kevin.young@ci.corvallis.or.us



OREGON CITY PLANNING DIRECTORS ASSOCIATION

League of Oregon Cities
1201 Court St. NE, Suite 200
Salem, OR 97301

TRAINING



SEPTEMBER 25, 2014

THURSDAY, 1 - 5 PM

EUGENE PUBLIC LIBRARY

100 WEST 10TH AVENUE

EUGENE, OREGON

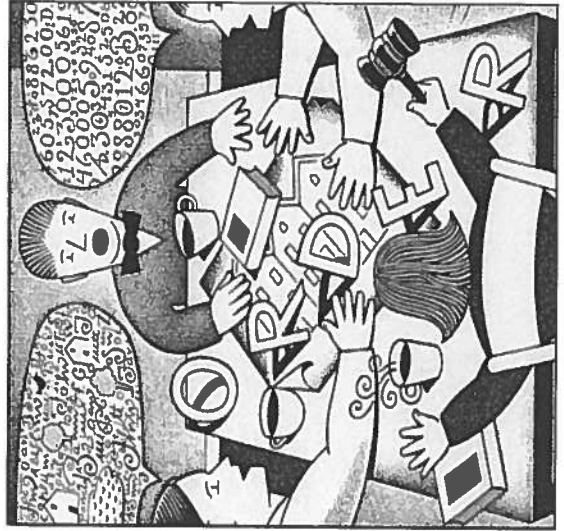
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PLANNING COMMISSIONER TRAINING

OREGON CITY PLANNING DIRECTORS ASSOCIATION is pleased to offer the 4th annual Planning Commissioner Training to City and County Commissioners and staff. This training program is offered in coordination with the 89th Annual Conference of the League of Oregon Cities.

The OCPDA is committed to offering affordable educational opportunities to elected and appointed officials on planning topics. This year's training features knowledgeable experts and practitioners from around the region to inform local decision-makers of best practices, lessons learned, legal considerations, and more. It is also a great opportunity for Planning Commissioners to discuss planning issues with Commissioners from around the state. Register now to reserve your seat at this training!



THURSDAY, SEPTEMBER 25, 2014
EUGENE PUBLIC LIBRARY

PLANNING COMMISSIONER TRAINING

TOPICS AND SPEAKERS
Light Refreshments Provided
1 pm — 5 pm

Ten Things Your City Attorney Wants the Planning Commission to Know

By Tim Ramis, *Jordan Ramis, PC*

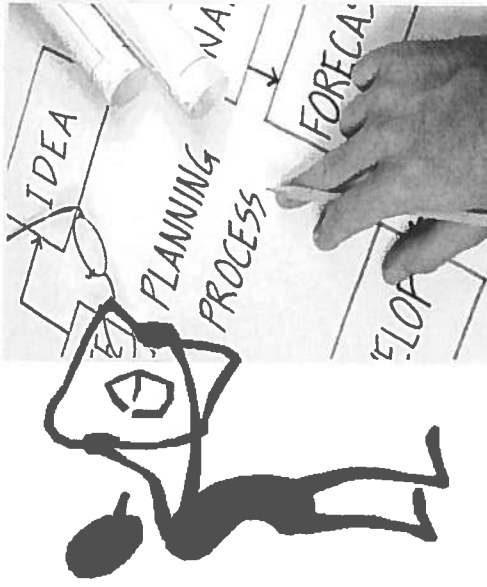
Local Decision Making from a Former Hearings Official and LUBA Referee

By Virginia Gustafson, *PC*

Planning Commission Panel Discussion

Various Planning Commissioner
Representatives from Around the Region

OCPDA Board Meeting 9 am — Noon, Open to the Public

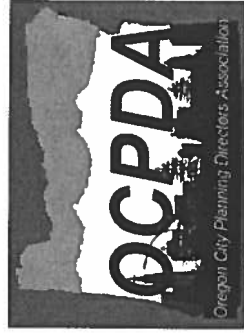


PLANNING COMMISSIONER TRAINING

September 25, 2014
Thursday, 1 pm - 5 pm

EUGENE PUBLIC LIBRARY
100 West 10th Avenue
Eugene, Oregon 97401
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www.eugene-or.gov

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the League of Oregon Cities



Notice of Cancellation of Planning Commission Meeting

There will not be a 7:00 p.m. regular session of the City of Newport Planning Commission meeting held on the evening of **Monday, September 8, 2014**. There will be a 6:00 p.m. work session, however.



AGENDA & Notice of Planning Commission Work Session Meeting

The Planning Commission of the City of Newport will hold a work session meeting at **6:00 p.m., Monday, September 8, 2014**, at the Newport City Hall, Conference Room "A", 169 SW Coast Hwy., Newport, OR 97365. A copy of the meeting agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder, 541-574-0613.

The City of Newport Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the work session.

NEWPORT PLANNING COMMISSION Monday, September 8, 2014, 6:00 P.M.

AGENDA

A. Unfinished Business.


1. Update on progress of the Nye Beach Design Review Ad Hoc Work Group.

B. New Business.

1. Grant request for funds to develop strategies for promoting the construction of student housing.
2. Amendments to Title X of the Newport Municipal Code to allow electronic message signs on Public-zoned property.

C. Adjournment.

Memorandum

To: Newport Planning Commission/Citizen Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: September 4, 2014
Re: Progress of the Nye Beach Design Review Ad Hoc Work Group

The Nye Beach Design Review Ad Hoc work group held its first meeting on March 26, 2014 and has met on four (4) occasions since then to discuss whether or not changes should be made to (a) the boundaries of the district; (b) height, mass, setback, and solar access standards; and (c) architectural guidelines. The city retained the services of SERA Architects to assist the group in better understanding how architectural guidelines influence the built environment and the types of changes they might want to recommend the Planning Commission pursue.

Attached is a PowerPoint presentation that I put together for the March kickoff meeting that provides an overview of the existing standards/guidelines and the issues that led to the formation of the Ad Hoc Work Group. Also, enclosed is a presentation prepared by SERA Architects along with a recommendation memo from SERA that the Ad Hoc Work Group will review at its next meeting, which will be held at 10:30 am on September 18, 2014 here at City Hall.

The Ad Hoc Work Group will likely hold 2-3 additional meetings to formulate its recommendations and may break them into those that can be reasonably accomplished in the short term as opposed to those that will take more time and resources to implement. They may also pass along issues for the Commission's consideration where they could not reach consensus.

This is an opportunity for the Commission and Advisory Committee to ask questions of staff or raise points that you would like the Ad Hoc Work Group to consider as it continues its deliberations.

Attachments

Staff PowerPoint presentation dated 3/26/14
SERA PowerPoint presentation dated 8/20/14
SERA recommendation memo dated 9/2/14

Nye Beach Design Review

MARCH 26, 2014 KICK-OFF MEETING

PLANNING COMMISSION AD HOC WORK GROUP

Overview of Existing Design Review Standards

- Purpose
- Geographic Boundaries
- Special Zoning Standards
- Design Guidelines
- When Design Review is Required
- Review Authority
- Submittal Requirements

Purpose

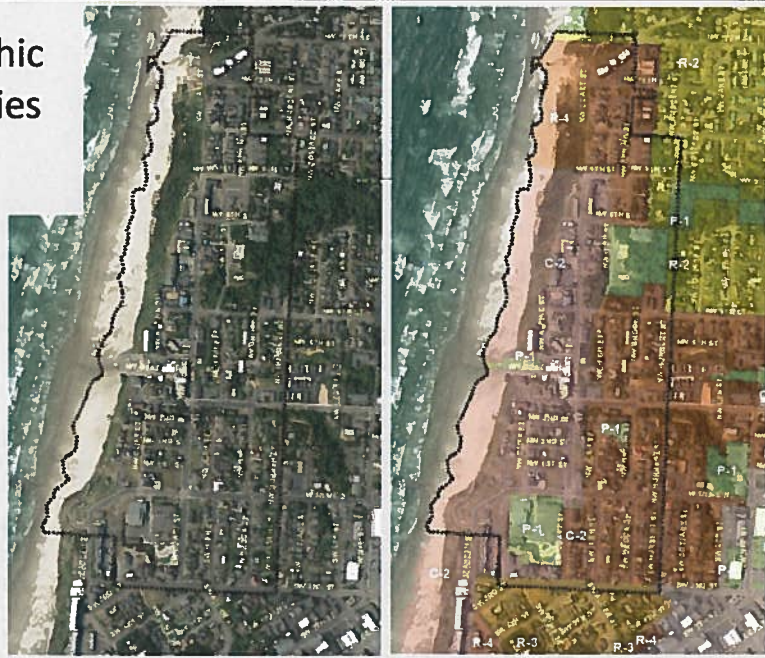
"Design review districts may be adopted by the City of Newport in accordance with applicable procedures to *ensure the continued livability of the community* by implementing standards of design for both areas of new development and areas of redevelopment. Design review is an important exercise of the power of the City to regulate for the general welfare by focusing on how the built environment shapes the character of the community." (NMC 14.30.010)

Purpose cont.

It is further the purpose of these standards to:

- Preserve the beautiful natural setting and the orientation of development and public improvements in order to strengthen their relationship to that setting.
- Enhance new and redeveloping architectural and landscape resources to preserve and strengthen the historic, scenic and/or identified neighborhood character and function of each setting.
- Improve the vehicular and pedestrian networks in order to improve safety, efficiency, continuity, and relationships connecting Newport neighborhoods.
- Strengthen Newport's economic vitality by improving its desirability through improved appearance, function, and efficiency.
- Improve the built environment in order to strengthen the visual appearance and attractiveness of developed areas.
- Implement the goals and objectives of the adopted neighborhood plans.

Geographic Boundaries



Special Zoning Standards: General

- No drive through windows are allowed.
- Residences associated with a bed and breakfast may be on any floor.
- All applicants shall sign a waiver of remonstrance for future street and/or sidewalk improvement districts if said improvement is part of a plan adopted by the city Council.
- Single-family residence is permitted outright in C-2 zone if on a floor other than street grade, and located along Coast, Olive, Cliff, Beach, or Third Street.
- Pre-existing single-family dwellings at street grade along the above streets designated outright use within existing footprint.
- Up to 5 multi-family units are allowed outright in C-2 if located on a floor other than street grade.
- Recreational Vehicle Parks are not permitted within C-2 and P-1 zones within the District.

Special Zoning Standards: General

- Additional residential use allowed, including at street grade, on C-2 property north of NW6th and south of NW 2nd Court that front Coast, Olive, and Cliff, provided:
 - Maximum density is 1,250 sf per unit.
 - Maximum height is 35 feet.
 - Maximum Lot coverage is 64% unless below grade off-street parking is provided in which case it is 90%
 - At least one off-street parking space is provided per unit.
 - Is setback from the property line no more than 5-feet.
- R-4 zoned areas eligible for the full range of C-2 uses, provided conditional use approval is obtained if the use would not otherwise have been permitted in the R-4 zone and total gross floor area does not exceed 1,000 square feet.
- Uses permitted outright in the C-2 zone are permitted throughout the District provided the gross floor area does not exceed 2,000 square feet. Square footage limit can be exceeded with conditional use approval.

Special Zoning Standards: Setbacks

- All required yards and setbacks established in NMC 14.11.001 and 14.18.001 shall be reduced by 50% this translates to:
 - R-4 setbacks reduced to 7.5-foot front, 2.5-foot side, 5-foot rear.
 - Garage setback from road reduced to 10-feet.
 - Row (grouped) housing must meet standard R-4 setbacks.
 - C-2 has no setback requirements, but in many cases must be located within 5-feet of a property boundary.
 - Adjacent yard buffer separating commercial and residential zones reduced to 5-feet.

Special Zoning Standards: Lot Size

- Minimum lot area in the R-4 and C-2 Zones is 3,000 square feet.
- Minimum lot width for the R-4 zone shall be 30-feet.

Special Zoning Standards: Parking

- Commercial uses within the area bounded by SW 2nd Street, NW 6th Street, High Street, and the Pacific Ocean are exempt from off-street parking if they participate in a Council-approved parking district.
- Commercial uses outside of the above area shall have the first 1,000 square feet of gross floor area exempted from the off-street parking calculation.
- All uses in the district shall be allowed an on-street parking credit that shall reduce the required number of off-street spaces by one off-street space for every on-street space abutting the property (with limitations).

Design Guidelines

- Contains clear and objective architectural design standards for single-family residential, multi-family, and commercial developments.
- Includes glossary of terms and illustrations.
- Architectural treatment seeks to conform to Bungalow Craftsman Style (1900-1925), Stick and Eastlake Style (1870-1900) and Colonial Georgian Style (1910-1935).
- State law requires jurisdictions provide a set of clear and objective standards for residential development.

When is Design Review Required

- New construction, substantial reconstruction, or relocation from outside the design review district of a single-family residence, principal commercial, or institutional building.
- Accessory structures that contain more than 300 square feet of gross floor area or 200 square feet if within 20-feet of a right-of-way.
- Addition of more than 50% gross floor area to an existing building or if the footprint of the building increases by more than 1,000 square feet.

Review Authority

- Planning Commission for any project that requires design review under the design guidelines or if a conditional use permit, variance or other Type III land use action is required. This includes:
 - Commercial buildings taller than 35-feet or with a footprint larger than 40-feet.
 - Any other commercial or residential proposal where the applicant wants to deviate from the listed guidelines.
 - Approval standards are the “purpose” provisions of the Design Review code.
- A conditional use permit is required, in addition to Design review Approval, for structures with an exterior dimension of 100-feet or more.

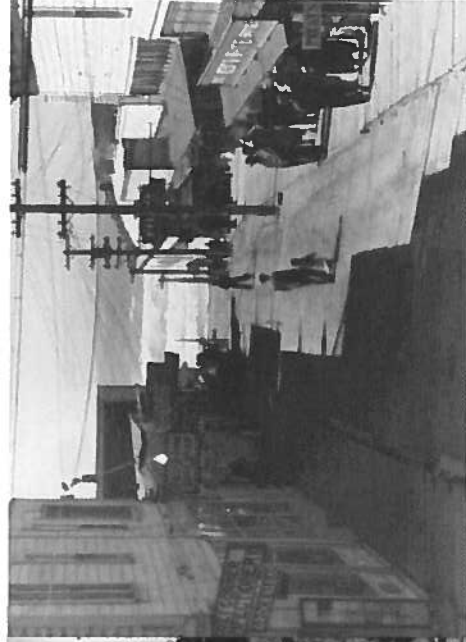
Submittal Requirements

- Application form
- Scaled site plan showing building, parking, landscaping, and location of adjacent streets
- Architectural renderings
- Names, addresses and map of owners within 200-feet (for notification purposes)
- Written findings

10-year Review Issues Raised at Council

- Width/Mass Standards for Buildings
- Setback Standards
- Height Requirements
- Architectural Features that Influence "Village Character"
- Zoning Allowances
- District Boundaries

NYE BEACH DESIGN GUIDELINES AND STANDARDS



1 GENERAL ASSESSMENT

- What is your general assessment of the **strengths and shortcomings** of the City's design guidelines and design standards considering:
- the **historic character** of the area, and;
 - **concerns raised** by area residents and business owners at the City Council's 16-Dec-13 meeting?

How would you recommend the City go about **addressing the shortcomings**?



1 GENERAL ASSESSMENT

Strengths:

- *Flexibility of a 'prescriptive approach' via design standards or a 'performance path' via design guidelines.*
- *Inclusion of Illustrations & Glossary*
- *Range of Considerations Addressed:*
 - *Breaking up long facades with bays, balconies, etc.*
 - *Materials*
 - *Porches, verandas, etc.*
 - *Canopies, sunshades*
 - *Lighting*



1 GENERAL ASSESSMENT

Shortcomings:

- *Not all actions have similar benefit or cost associated.*
 - *In some cases, terms are overly vague, and may not be clear enough to give intended guidance. (See Question #5.)*
 - *Some Illustrations are not as clear in intent as others.*
- and...*
- *Are the guidelines addressing the core community concern: building size?*



1 GENERAL ASSESSMENT

Addressing Shortcomings:

- *Consider System Of Ranking Requirements, So That The Level Of Effort Is Similar Across Projects: Point System?*
- *Upgrade Selected Illustrations*
- *Consider a blend of Standards and Guidelines – e.g., some standards would apply, even when the guidelines approach is used*



2 LESSONS FROM OTHER CITIES?

What tools or techniques for influencing architectural and landscape design are you seeing other cities employ that might be good fits for Nye Beach?

- *Renewed emphasis on clear and objective language throughout*
- *Stepping down massing to transition between neighborhood center and active streets to low-density residential*
- *Form-Based Codes: Defining the public spaces as a primary goal*
- *Points Systems*



2 LESSONS FROM OTHER CITIES?

Full re-write of codes, to eliminate discretionary language

Example (Lake Oswego):

- *Original language: requires that bus shelters, drinking fountains, benches, mail boxes, etc. be designed to be “complementary in appearance to buildings.”*
- *Proposal to revise into a clear and objective standard by requiring that these elements “utilize the same materials and/or colors as used within the building, or utilize materials and/or colors [or accent materials and/or colors] from the building, or as set forth by the City engineer or adopted street improvement plans.”*



2 LESSONS FROM OTHER CITIES?

Form-Based Codes:

- Focus directly on the **form** of the built environment;
- Allow appropriate **mixing** of land uses (separating noxious uses);
- Describe and illustrate the form of the **buildings**...
- ...and the **public spaces** that define the city.



"Transect" of a community,
Image: citykin.com



2 LESSONS FROM OTHER CITIES?

Form-based codes, with their generous illustrations and simple diagrams, clearly convey a community's intentions for an area. FBCs are designed for quick and convenient understanding.

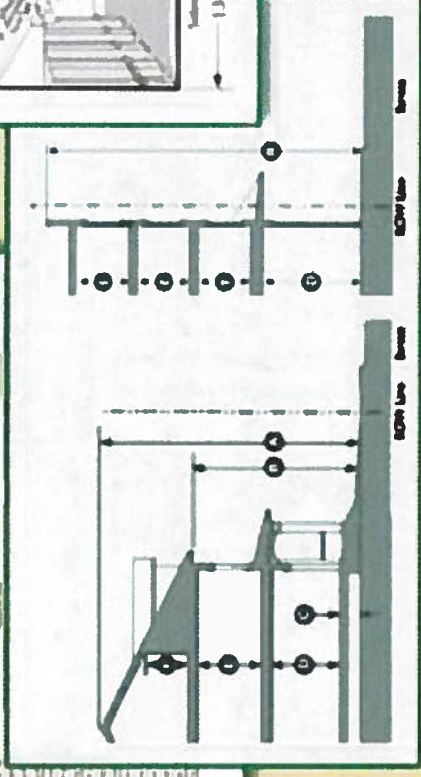
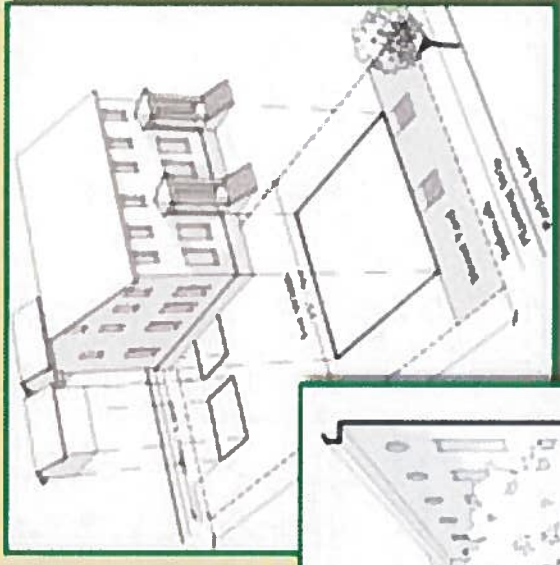
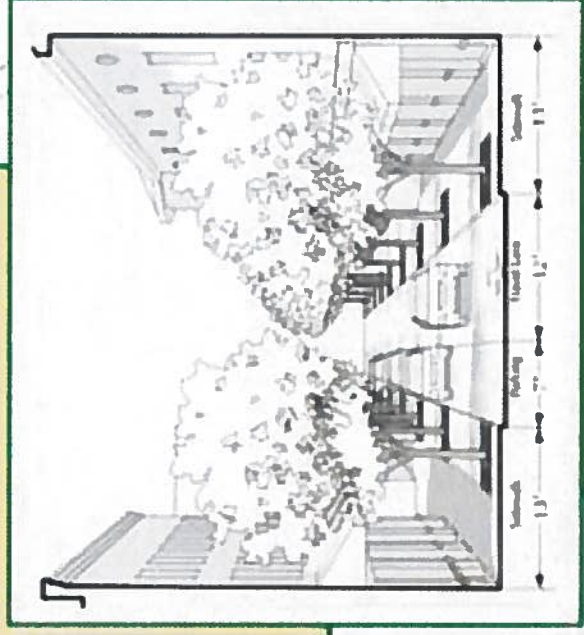
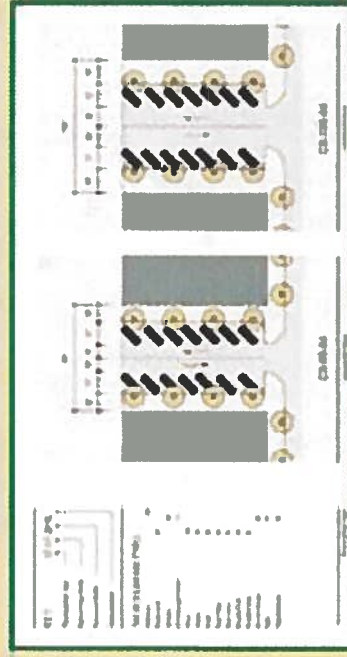


Image: formbasedcodes.org – “What Are Form Based Codes?”

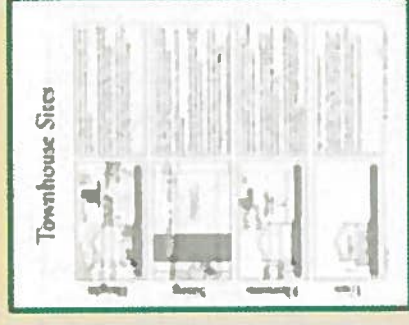


2 LESSONS FROM OTHER CITIES?

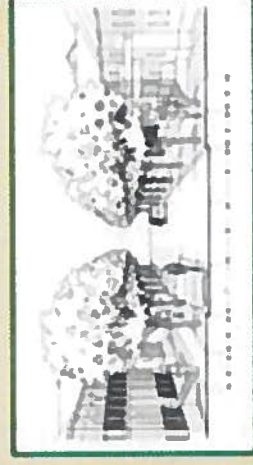
By looking at the *Regulating Plan*, a property owner can quickly see the design regulations governing his or her property. She knows what can be done on the site without having to study the entire code.



Regulating
plan



Building Form Standard



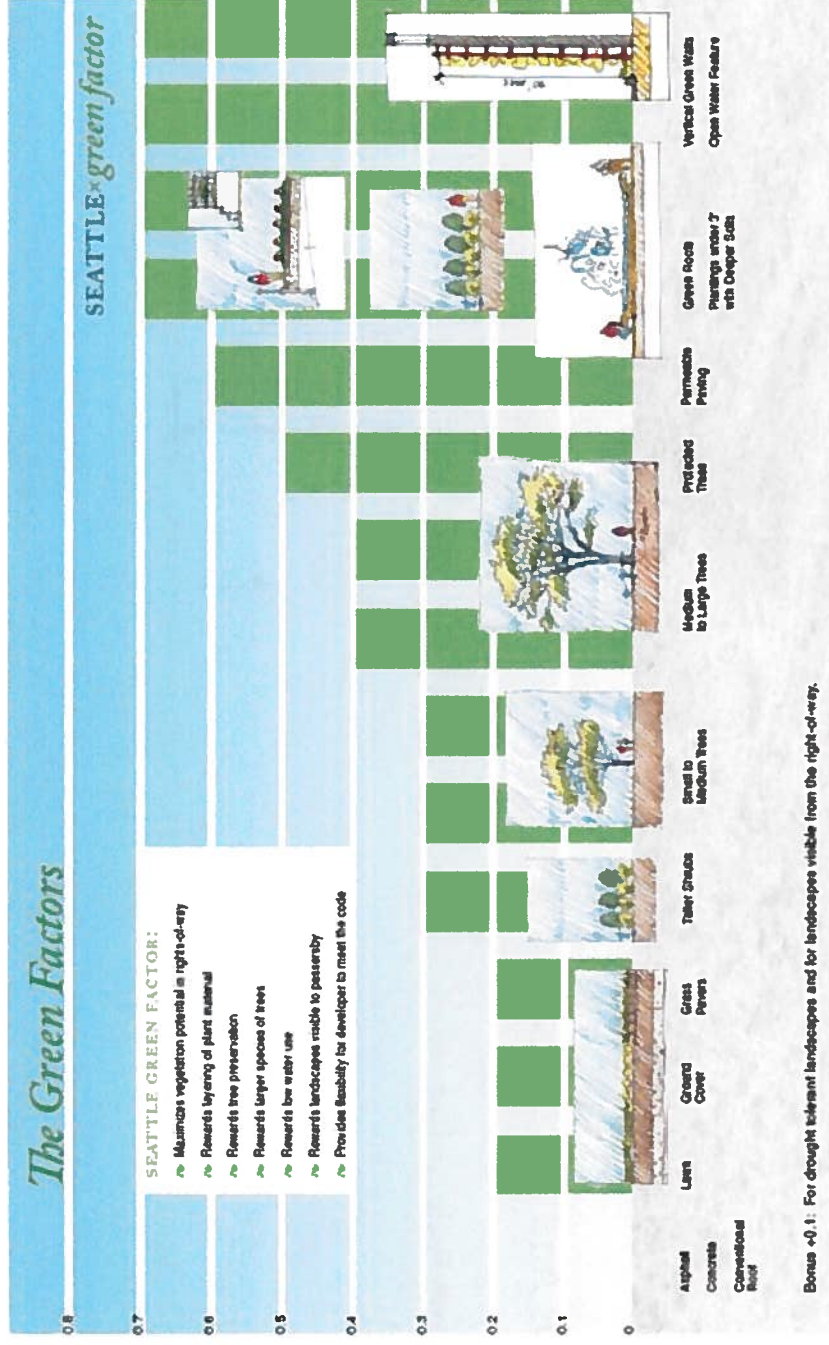
Public Space Standard



Image: formbasedcodes.org – “What Are Form Based Codes?”

2 LESSONS FROM OTHER CITIES?

*Seattle's Green
Factors System:
different landscapes receive
different points,
based on **cost** and
expected **benefit**
considerations.*



2 LESSONS FROM OTHER CITIES?

Point System linked to level of effort:

Strategy	Cost Range	Points
High Level Of Articulation Of Building	...	tbd
Habitable Bay Windows And Balconies	...	tbd
Minor Bay Windows And Balconies	...	tbd
Roof Articulations	...	tbd
Belly boards, trims, etc.	...	tbd



2 LESSONS FROM OTHER CITIES?

Incentives – what can the City (and community?) offer to help offset the potential cost of better design?

- *Tiered permitting fees, based on measures taken?*
- *Expedited review?*
- *Density Bonus (assuming compatibility with all guidelines)?*
- *Allow/encourage “de-coupled” parking – taking full advantage of district parking approach*



3 MASS AND HEIGHT

Many of the concerns that have been raised relate to the mass and height of new development, particularly commercial buildings.

How might we be able to tighten up our architectural design guidelines and standards to ensure large projects are consistent with the character of Nye Beach?

- *Re-evaluate Some Criteria Language*
- *Consider Explicit Solar Access Provisions*
- *View Corridors (See Question 4)*



3 MASS, SCALE AND SIZE



Elements that break down sense of mass, despite large size:

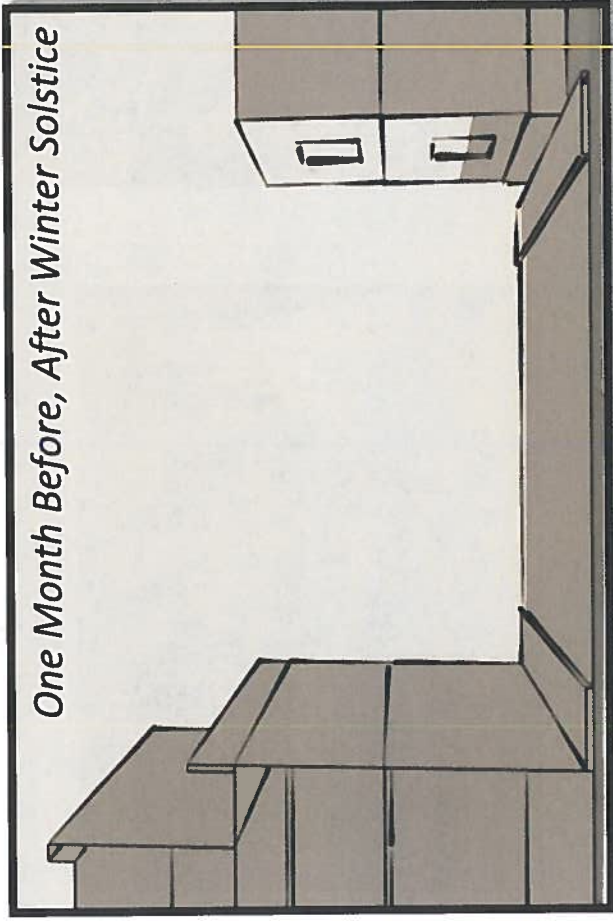
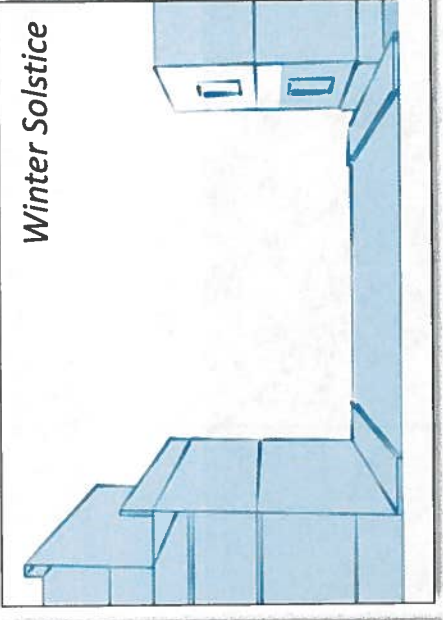
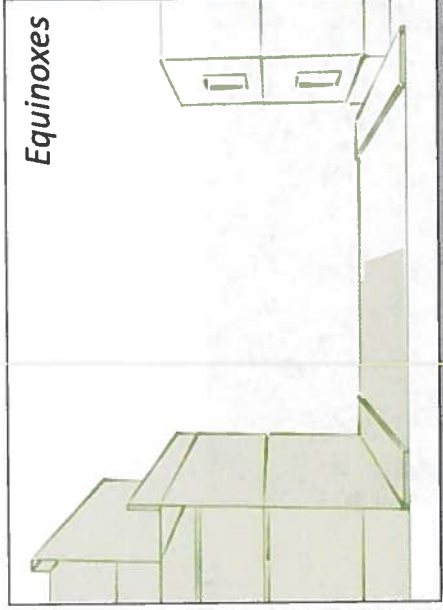
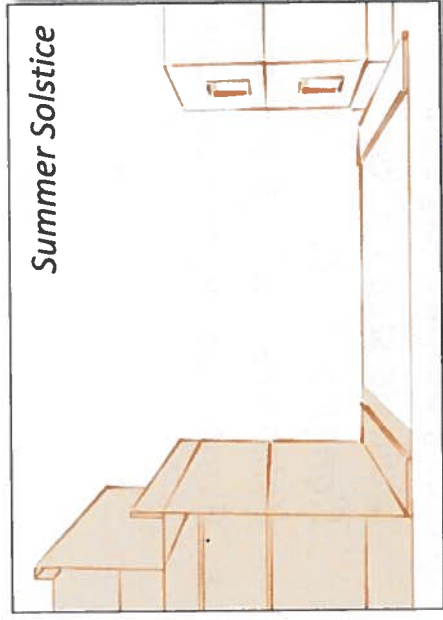
- *Multiple step-backs*
- *Significant recesses*
- *Balconies – with furnishings*
- *Planter boxes, balustrades, etc.*



Image: 1020vallejo2.com



3 MASS AND HEIGHT: SOLAR ACCESS



Establish clear expectations and guidelines re: **when** solar access is to be provided.

State sun angles, times of day and year.

And **where**: Is the goal solar access to the rooftop (e.g. solar panels), ground floor, % of façade in shade, etc?



20-Aug-2014

Nye Beach Design Review Guidelines & Standards

S E R A

4 CUMULATIVE IMPACTS

The guidelines and standards do not speak to cumulative impacts (e.g. multiple large commercial buildings in a row). This includes concerns of creating a long wall of buildings without visual relief and a loss of solar access.

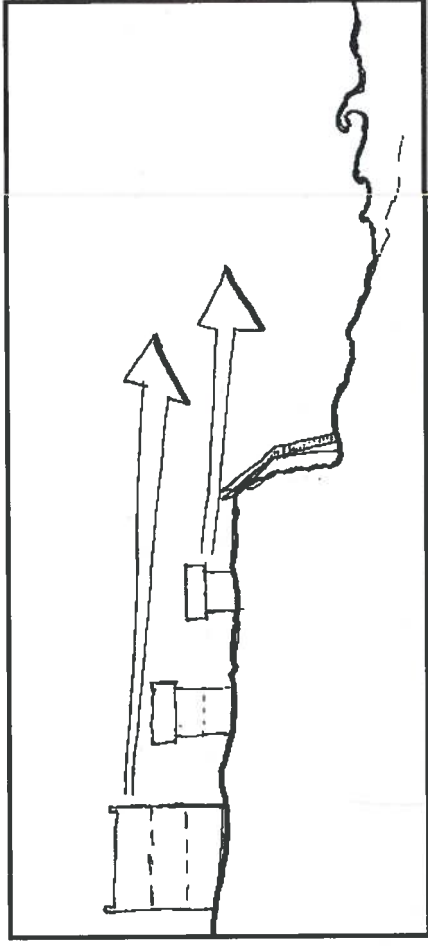
What types or architectural or landscape standards might the City use to address these concerns?

- *Establishment of Defined View Corridors*
- *Step-back of Upper Floors*
- *Zoning controls on FAR, diversified heights*



4 MANAGE HEIGHTS

- Create a 'tiered' development profile, to maximize views for as many as possible



Caveat: Historic Nye Beach has an opposite pattern: taller buildings on the cliff

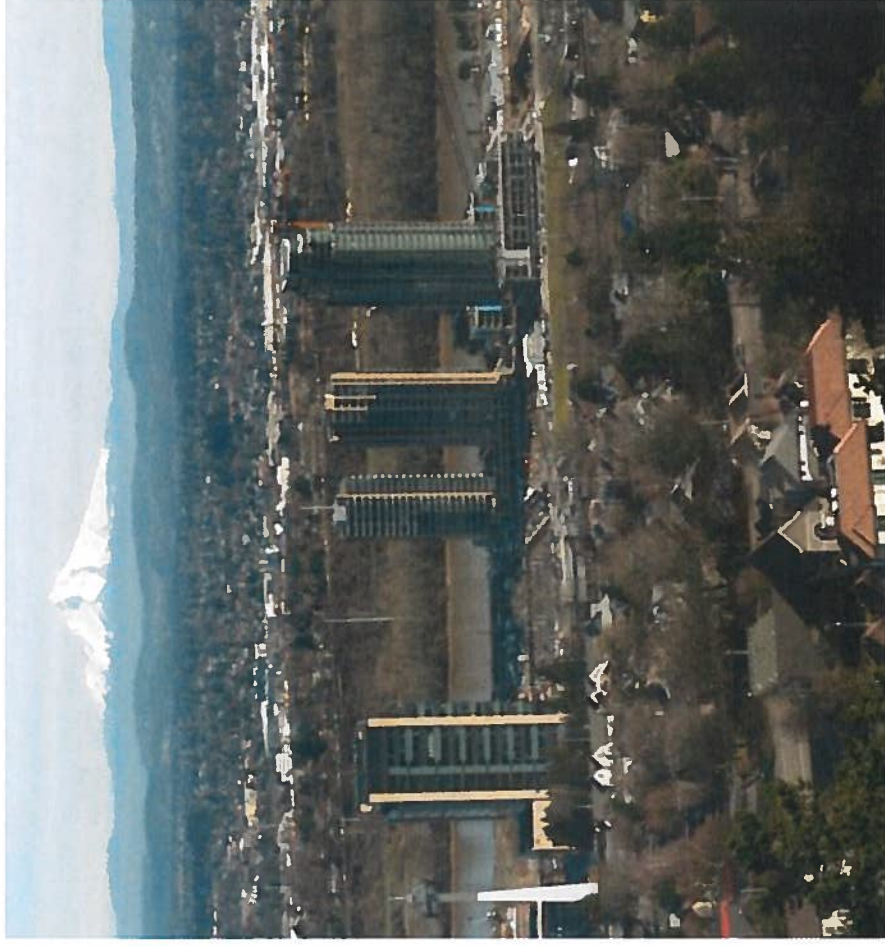


The "Down-in-Front" Strategy: taller buildings behind



4 VIEW CORRIDORS

- *Define Areas – Streets, Plazas, etc. – from where key views may not be blocked.*
- *Establish Height Limits that Maintain the Identified View(s)*
- *Alternatively, Require Visual Impact Study*



Portland has used Zoning Code (Scenic Resource Overlays) and development agreements to manage views.



4 CUMULATIVE IMPACTS

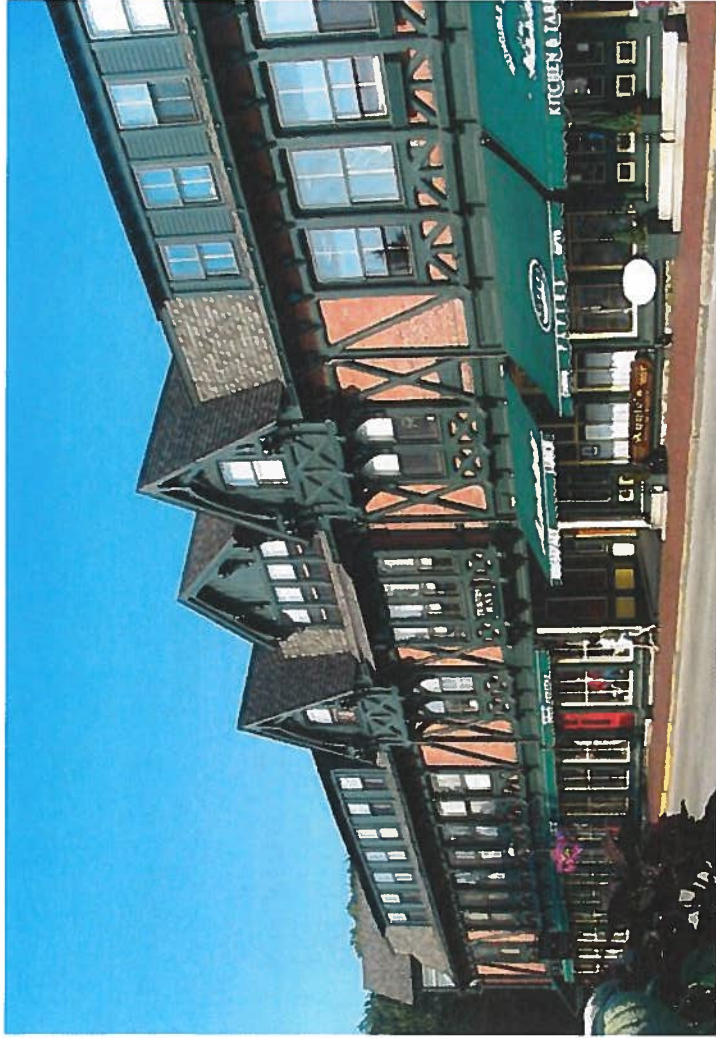
Consider requiring that full block projects be broken up more than smaller projects:

- *Alleys or mid-block passages*
- *For project >100' along a frontage, require courts or patios for a deeper setback to break up the frontage more.*
- *Review: are the building sizes allowed right for the community's goals for the neighborhood?*



4 MORE THOUGHTS ON SCALE, MASS

Or, Lessons from that “Other Newport” (Rhode Island)



“Travers Block”

Image: crowsnestnewport.com



Newport “Casino”

Image: wikimedia.com



5 DISCRETIONARY LANGUAGE

The design guidelines refer to such concepts as maintaining a “cohesive architectural resource” (Guideline #1), “acknowledging the scale of the streetscape” and “appropriate human scale measurements” (Guideline #2).

How might we clarify this type of discretionary language in the guidelines so that the Planning Commission, applicants, and public have a better understanding of the design features that we are looking for?



5 DISCRETIONARY LANGUAGE

Structure the presentation of guidelines to articulate general intent separately from specific expectations

TITLE: Acknowledge the Scale of the Nye Beach Streetscape

INTENT: Use architectural elements to break up building elements to familiar human scaled elements

GUIDELINES:

- *Vertical divisions*
- *Balconies & canopies*
- *Window sizes*
- *Awnings*
- *Planters*



5 DISCRETIONARY LANGUAGE

- *Quantify requirements wherever possible, including dimensions on illustrations*
- *Consider inclusion of **proportional guidelines**, if the goal is a particular style or relatively uniform look*
- *Ensure language is clear and objective to the highest degree possible (as noted in Question 1):*
 - *Rather than: “Mechanical equipment shall be screened and integrated into the building design” ...*
 - *“All rooftop mechanical equipment shall be set back or screened such that it is not visible from the sidewalk on the opposite side of the street. Ground level mechanical equipment shall be screened with a solid wood or masonry fence or wall, and not located between the building and any street.”*



6 BUILDING THE KNOWLEDGE BASE

What steps or actions should the city consider taking to ensure that its decision makers are equipped to appropriately apply architectural standards?

- *Train staff and Planning Commission, Council members. Use study sessions not tied to particular decisions, but to general care-taking role.*
- *Arrange tours – of your town and others – to talk about what you like and don't like, what works and what doesn't.*



Pacific City, OR



Manzanita, OR



6 BUILDING THE KNOWLEDGE BASE

Talk to each other – seek community dialogue – not just in hearing and potential confrontational moments:

- *Have periodic lectures, films, work parties and celebrations of what makes your neighborhood successful.*
- *Directly address difficult questions like: are we seeking historic styles and imitations, or compatibility, but with new creativity?*



The Sea Ranch, CA



6 BUILDING THE KNOWLEDGE BASE

Understand that design – of a building, or of a community – is a creative process:

- *Make it a **dialogue***
- *Allow true **creativity**, whimsy, and experimentation*
- *Be clear about **cost** implications of the quality that you are aspiring to achieve...*
- *...and the **benefits** –to all owners and the public - of creating that quality!*



Memorandum



ARCHITECTURE
URBAN DESIGN + PLANNING
INTERIOR DESIGN

Date 02-September-2014
Project Name Nye Beach Design Standards Assistance
Project Number 1401039
Attention Derrick Tokos
City of Newport, Community Development
Address 169, SW Coast Hwy
Newport, OR 97365
Email D.Tokos@theCityofNewport.net
FAX (541) 574-0609

Subject Memorandum on Nye Beach Design Review Standards and Guidelines

Introduction & Executive Summary

The City of Newport engaged SERA to assist with a 10-year review of the Nye Beach Design Review Standards and Guidelines, in support of a Task Force that is leading the review. SERA staff reviewed the standards and guidelines, relative to a set of key questions provided by the Task Force, then facilitated a Task Force discussion of the perceived strengths and weaknesses of the standards and guidelines. This memo summarizes SERA's observations and suggestions, based on that input.

Suggestions offered in this review include 1) opportunities to tighten up language and revise illustrations to clarify intent, 2) methods to structure guidelines for added clarity of intent, 3) consideration of defined viewsheds and 4) consideration of explicit solar access guidelines. In addition, it is recommended that the City and community develop a pattern book or similar resource that will document the qualities that the community values in neighborhood development. Both the process and product arising from such an effort will improve the decision making process for future projects.

Context and Background

The City of Newport is conducting a ten-year review of Design Review Standards and Guidelines for the Nye Beach neighborhood. As part of this process, SERA was asked to review the guidelines, offer lessons from the firm's experience with guidelines, and facilitate a discussion of desired outcomes. The City's Task Force met and compiled a list of specific questions on which consultant input was desired (emphasis added):

1. *What is your general assessment of the **strengths and shortcomings** of the City's design guidelines and design standards considering the historic character of the area (as defined in the document) and **concerns raised** by area residents and business owners at the City Council's December 16th meeting? How would you recommend the City go about **addressing the shortcomings**?*
2. *What tools or techniques for influencing architectural and landscape design are you seeing **other cities** employ that might be good fits for Nye Beach?*
3. *Many of the concerns that have been raised relate to the **mass and height** of new development, particularly commercial buildings. How might we be able to tighten up our architectural design guidelines and standards to ensure large projects are consistent with the character of Nye Beach?*
4. *The guidelines and standards do not speak to **cumulative impacts** (e.g. multiple large commercial buildings in a row). This includes concerns of creating a long wall of buildings without visual relief and a loss of solar access. What types of architectural or landscape standards might the City use to address these concerns?*
5. *The design guidelines refer to such concepts as maintaining a "cohesive architectural resource" (Guideline #1), "acknowledging the scale of the streetscape" and "appropriate human scale measurements" (Guideline #2). How might we clarify this type of **discretionary language** in the guidelines so that the Planning Commission, applicants, and public have a better understanding of the design features that we are looking for?*
6. *What steps or actions should the City consider taking to ensure that its **decision makers are equipped** to appropriately apply architectural standards?*

These questions were the topic of a discussion with the Task Force on August 20, 2014. SERA prepared a set of illustrated slides addressing the questions to guide this discussion (notes and slides attached). This memo addresses the questions posed above, as well as the Task Force's primary discussion points and concerns, and then suggests solutions to address the concerns raised.

In the Task Force discussion, the comments on the design guidelines were discussed, and a few key topics emerged that may not be addressed to the satisfaction of all via the design review process only. Specifically, questions related to the overall size of buildings were raised which may be more directly related to zoning and floor-area ratio (FAR) requirements elsewhere in the Zoning Code.

The comments below generally follow the structure of the Task Force's key questions. For each, where suggestions are offered, they are arranged in terms of level of effort, per staff request. (Note that this arrangement is based on the consultant's understanding of the effort of the work, and is not explicitly aligned with a particular budget or direct knowledge of staffing resources that may be available.) Specifically, the suggestions are grouped into levels of effort as follows:

1. "Low-hanging fruit" – improvements that generally fall within the parameters of editing the text and illustrations of the Standards and Guidelines in their current structure.
2. Potentially significant effort in staff and/or Task Force time – tasks that may require additional resources to be budgeted, but are largely within the context of the Design Review Standards and Guidelines.
3. Potential need for additional expertise and/or policy changes beyond the Design Review Standards and Guidelines.

General Assessment

As noted in the meeting on 8/20/14, SERA's review found that the design guidelines are generally well organized, and have several strong qualities. In particular the option to choose between standards and discretionary guidelines allows each project to opt to follow the prescriptive standards, or to innovate within the bounds of the design guidelines. As noted in a follow-up question, the guidelines are subject to discretionary interpretation; strategies to address the issues of discretionary language and to clarify the guidelines are addressed in subsequent sections.

General comments and observations on the Standards and Guidelines are noted below, including suggestions for addressing perceived weaknesses:

- Not all the actions described by a Design Standard have similar benefits or costs associated, so there may be a risk of projects taking the path of least resistance, rather than tackling design solutions that may be more beneficial in achieving the goals.
 - As an example, in SFT Design Standard #1, Element B: Decorative brackets (Item 12) and lap siding (Item 13) are typically more readily integrated than features such as porches, dormers and bay windows. It may therefore be desirable to further cluster these elements.

Just as roof elements have their own section, Element A, it may be desirable to break out Element B in order to focus on façade articulation, and to introduce an Element C to address more minor features. Requiring elements from each would then give a range of architectural approaches across all scales. *[Expected level of effort: 1]*
 - An alternate approach to clarifying the relative value of design solutions would be to establish a point system, allocating points for each desired strategy. For example, a larger point tally would be allocated for strategies such as porches and highly articulated buildings, and fewer for relatively minor decorative elements. Under such a system, a project would need to achieve a certain level of points, but would have flexibility on how to achieve them.

It is recommended that builders and/or a cost estimator be engaged to help establish the level of effort associated with each. *[Expected level of effort: 2 or 3, depending on approach]*
- In some cases, terms are overly vague, and may not be clear enough to give the intended guidance. (Some of these are addressed in the follow-up question regarding Discretionary Language, and are addressed below.) Examples include (with emphasis added):
 - Design Guideline #3: "Roof shapes shall be **compatible** with the neighborhood...." The Guidelines do not define the term "compatible" here. This 'compatibility' guideline contrasts significantly with the Design Standards, where care is taken to articulate a set of intended roof types. This creates an issue of discretionary interpretation, as addressed below.

It may be desirable to establish a listing of preferred roof types in the glossary or similar location where both the Standards and Guidelines can make reference to them.
 - Design Guideline #6: "...buildings shall provide **variety** in building shape, height, rooflines..." "Variety" in this context can be widely interpreted, and could lead to designs that are not cohesive or consistent with the intent of the Guidelines. While the illustrations cited help clarify the guideline's intent, it may be helpful to label specifically those qualities that are desired.

[Expected level of effort: 1]

- Upgrade Selected Illustrations: several of the included illustrations would benefit from updating, either to clarify intent or to improve their graphical quality. The paired illustrations in #7 for example are somewhat murky, weakening the understanding of the awnings, bays, etc. *[Expected level of effort: 1].*

Tools & Techniques from Other Cities

The Task Force requested that SERA offer examples and perspectives from other communities that have experience with design guidelines. There is a range of examples that can be applied to improving the Nye Beach Standards and Guidelines.

- Review for clear and objective standards: many communities are reviewing design standards to ensure that language meets the legal definition of ‘clear and objective’ standards. SERA recently assisted Lake Oswego with such a review, with a primary goal of helping the City avoid vague phrases. (See the discussion of Discretionary Language, below.) *[Expected level of effort: 1 or 2]*
- Point systems: as discussed above, point systems can help to ‘weight’ the differing efforts required for different design solutions, and help to ensure that projects apply a range of design solutions. While focused on a single design attribute – integrated landscape – the Seattle Green Factor program (seattle.gov/dpd/cityplanning/completeprojectslist/greenfactor) is a strong example of this approach. While each project must achieve a set point score, the Seattle program allows developers to choose which strategies work for their project’s site, density, etc., and points are established based on the benefits of each strategy.
- Form-based codes: Form-based codes have emerged in the past decade and are particularly valuable for mixed-use areas. While general practice in post-WWII zoning codes has been a focus on separating uses – residential, office, commercial, industrial, etc. – form-based codes recognize that it is often appropriate to mix compatible uses. The evolution of these codes has been a recognition of the value of neighborhood commercial uses, as well as re-integrating clean employment uses – such as offices and in some cases light industrial – with residential areas, to create complete communities.

The regulatory approach of form-based codes has therefore focused less on land use – although incompatible uses (such as heavy industrial) are still separated – and more on how both public and private development contributes to high-functioning communities. As with many provisions of the Nye Beach Design Guidelines and Standards, form-based codes seek to create streets that function as well for pedestrians as for vehicles, and that seek to activate all public spaces with thoughtful design. Form-based codes also include tools to directly address aesthetic considerations.

Wholesale conversion of the Nye Beach regulatory structure to a form-based code would be a Level 3 work effort, but a review of adopted form-based codes would be a useful effort for the Task Force to undertake, in order to bench-mark the Design guidelines against strong prototypes.

- Pattern books: Many large and small communities have adopted some type of “pattern book” to clearly illustrate desired design features. Typically used as a tool to accompany new planned developments, they have also been used to articulate historic context. Oregon examples include Sherwood (The Springs, a large housing development) and Wilsonville (Villebois, mixed-use development), though both are very focused on new residential homes in sub-divisions.

Adaptation of the pattern book concept to reflect Nye Beach’s history could be an outcome of an effort to systematically review and document the development history of Nye Beach. While

this would be a significant effort of staff, consultant, and/or volunteer time, it could build on existing historic resources and lead to a valuable community dialogue on those elements of the area that are most defining of the elusive context of “character.” A partial example of this approach is the set of integrated guidelines in Astoria’s *Gateway Overlay Zone* (astoria.or.us/Assets/dept_3/pm/pdf/devcode-14.pdf), where illustrations from historic structures serve to represent desired design elements.

- **Cottage clusters:** In meeting with the Task Force, several members expressed interest in regional examples of the “cottage cluster” concept. Cottage clusters allow one or a few residential lots – typically in a single-family home or mixed residential context – to be used for a cluster of smaller homes. These clusters usually have policies requiring shared space and parking, creating a small ‘commons’ for the cluster.

While Newport hosts a cottage cluster at the Wilder development in South Beach, examples of ordinances written to explicitly allow this development type as a retrofit of existing neighborhoods can be found in the municipal codes of Langley, Kent, and Lake Stevens, WA. Metro, Portland’s regional government, has published a good fact sheet on the development type: oregonmetro.gov/sites/default/files/wood_village_case_study.pdf

Building Mass & Height

In the meeting on 8/20/14, it was clear that the issue of building mass and height may be one where the divergence of community views is widest. While much of the SERA-prepared slides addressed the question: “*How might (Newport) be able to tighten up our architectural design guidelines and standards to ensure large projects are consistent with the character of Nye Beach?*” it seems that some members of the Task Force believe the question of “*How large should buildings in the area be?*” is of equal or greater importance.

There are multiple questions that have been raised related to this topic, broken out here in the interest of addressing each:

- How shall views be protected – both from public areas and from private lands that currently have views?
- How can solar access be assured?
- How does the fact that Nye Beach has had “large buildings” throughout its history shape this discussion?
- Which potential solutions are within the realm of design guidelines and/or standards and which may require use of other tools?

Protecting views: protecting views is a complex issue, and is often very personal for stakeholders, especially those who have come to value existing views. In order to address the value of views, several steps should be taken:

- Establish which views are to be protected: views of the ocean, views of particular landmarks, etc.
- Also, identify the viewpoint for views. Is the goal to protect views from key public spaces or vantage points?
- Alternatively, is the goal to also protect views from individual properties? Typically, communities seek to use public policy to establish public benefits, though there are examples of establishing viewsheds to help maintain views from an existing neighborhood. For example, development agreements for the South Waterfront development in Portland sought to preserve viewsheds from the Lair Hill area. While examples such as this address new development and entitlements in

an area undergoing redevelopment, they do not necessarily apply in areas where existing entitlements would allow one property owner to block the view of another under base zoning.

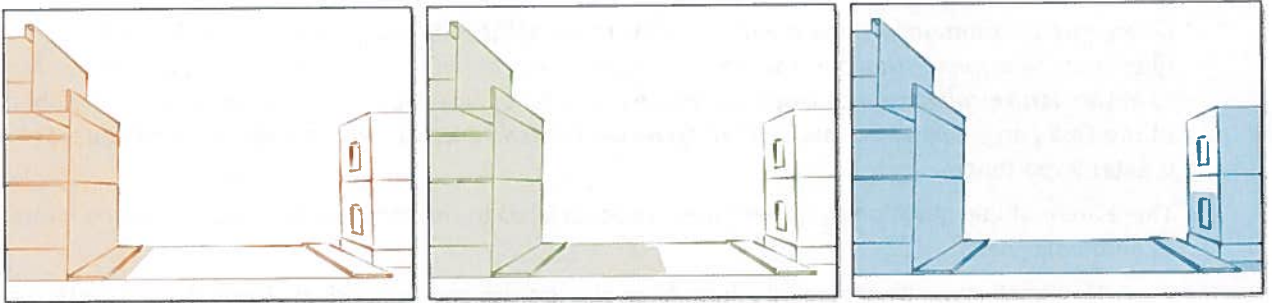
- Conduct a study that maps the areas that would need to be limited in height and/or massing to protect the views in question. This process will likely be an iterative one, as the impacts may be significant enough to warrant discussion and negotiation among the affected parties.
- Adopt the height and mass limitations identified from the above steps.

[A comprehensive viewshed study would likely be a Level of Effort #3.]

Solar Access: Solar Access guidelines are often written with vague direction to ‘allow solar access to neighboring buildings.’ That vagueness often sets the stage for disputes around interpretation. To be effective, solar access guidelines should establish clear expectations and guidelines regarding:

- **When** solar access is to be provided. State the times of day and year when access is to be assured, or which sun angles are to be maintained. Disallowing a shadow to fall on a neighboring property even when it is low in the sky (winter) will create a very low density development pattern, and may not provide much benefit, if the sun is not out much at those times. (See diagrams below.)

Solar Access Guidelines

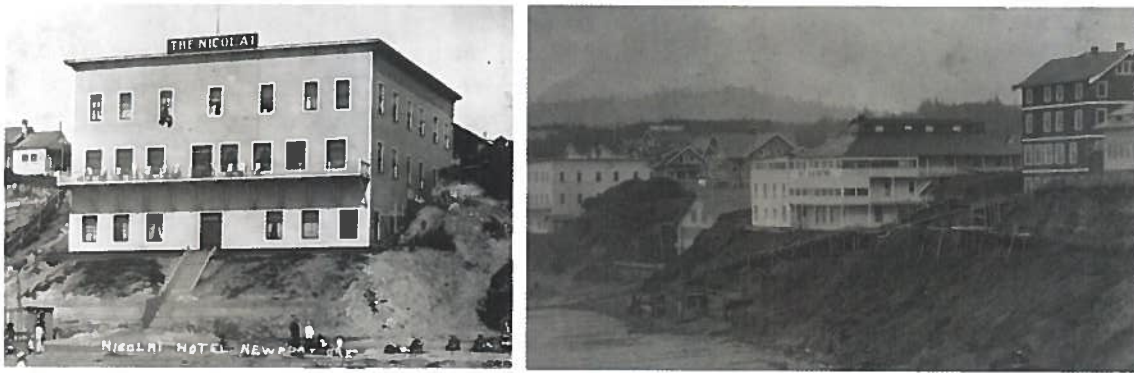


- **Where** on the neighboring property should solar access be protected? Is the goal to assure solar access to the rooftop (for example, to support functional solar panels), or all the way to the ground floor (where pedestrians will be most present), or a defined percentage of the façade that may be in shade?

[Developing basic solar access guidelines for Nye Beach could involve a Level 2 effort; however, the likely implications on development would push this into a Level 3 effort.]

It was noted in the Task Force discussion that solar access and view protection in the Nye Beach context may result in different approaches to massing of new buildings. Solar access will generally be concerned with the massing of a building as it affects its shadow to the north. Viewshed protection more often will be concerned with creating buildings that are slender in the north-south direction, so as not to create long walls blocking ocean views.

Role of Large Buildings in the Neighborhood: While Nye Beach is most known for relatively small-scale homes, it has been noted that larger structures have been part of the context throughout the neighborhood’s development history.



Historically, larger, tourist-serving hotels and spas were a part of the Nye Beach area; today, single-family homes and smaller commercial buildings contribute significantly to the character of the neighborhood.



If the Task Force opts to consider reducing the allowed size of buildings in the area, there are limits to how far design guidelines and standards will be able to support that goal. It therefore may be most direct to review and address provisions of the base zoning, in particular FAR allowances, a process that likely will require a larger discussion than originally expected [*i.e., a Level 3 effort*].

However, there are important steps that can be taken within the review of the Standards and Guidelines themselves that will accomplish some limits on massing, and/or make larger buildings more in line with the historic character of the area. Primary examples include:

1. Addressing significant differences between the Standards and Guidelines with regard to massing. Currently, the design standards have tighter and more direct language regarding the massing of buildings. A primary example is MF Standard 1.A, which limits buildings to 100 feet in length and requires a 10' gap between multiple buildings on a site. The Design Guidelines do not have such explicit direction on length, but as noted in a subsequent question, have more discretionary language, leaving room for a broad range of interpretations.
2. Clarifying the types and dimensions of offsets desired in the composition of facades to avoid large planar compositions. Again contrasting the Standards and Guidelines, Design Guideline 2 has general language regarding "canopies, balconies, offsets in the façade..." while the standards use dimensions to describe the intended result.

While the flexible guideline approach is a valuable alternative to the prescriptive standards, the guidelines would benefit from more definition to key ideas such as offsets and vertical transitions. Without this clarity, the risk is that larger buildings will be proposed that are flat in composition, and inconsistent with the intent of the guidelines to create smaller building masses.

[*Level 1 effort*].

Cumulative Impacts

The most likely impacts of a cumulative development pattern of larger buildings are likely to be in the form of blocked views and solar shading. The comments above on those two strategies apply here, as well. Additionally, it would be worth exploration of a strategy of step-backs of buildings above the second level, to create a pattern of gaps for light and views, while still having a strong street frontage.

Discretionary Language

In editing the guidelines to address discretionary language, it is recommended that they be edited to clearly function as “performance” guidelines, in contrast to the “prescriptive” standards. A key improvement would be the addition of a clear intent statement for each guideline, so that a project team understands what each guideline is seeking to accomplish. The intent statement can utilize terms that are somewhat more general, with the more detailed subsequent sections describing the specific expectations. This will allow future development and design teams applying for approval to address the core intent while having appropriate design freedom.

An example of this change in structure affecting Design Guidelines #1 might be:

Intent: Take inspiration from and maintain a cohesive architectural resource for residential development.

Performance expectations:

- Explicitly reference architectural features and styles currently existing in Nye Beach or as indicated in historical documents of the area, and;
- Utilize roof forms and slopes existing in the traditional residential buildings stock of the neighborhood;
- Incorporate architectural features described in the Design Standards, including porches, verandas, sunrooms, etc.

Issues such as solar access are well suited to performance guidelines, as well. An example might be:

Intent: To provide solar access to public spaces and neighboring structures, in appropriate balance with the scale of village center development patterns.

Performance expectation:

- Provide shading studies indicating the building’s massing and shadow lines during the mid-day (at 10:00 am and 2:00 pm) and bracketing a 3-month period around the winter solstice (on November 6 and/or February 6).
- Building elements shall not shade the ground floor sill or above of buildings located across a street or public open space during that time period.
- Buildings abutting a single-family residential zone to the north shall not shade the sill height of any existing dwelling located at least 30 feet from its rear lot line.

Guidance for Decision Makers

As implied by the question on this topic, engaging City decision makers in the intent and substance of the Design Review Guidelines and Standards is an important part of a successful review process. There are several approaches that the consultant team suggests:


- Use of study sessions to familiarize with the general issues and history of Design Review in the area, apart from a particular development application's formal hearings.
- Ensure that the decision making body has appropriate expertise in the topics being addressed, either in the experience of the constituent members, or via staff and consultant resources, when required.
- Encouragement of – and participation in - community events that seek to create informed discussion of Nye Beach's history and design ideas. These might include guest lecturers, walking tours, tours to other communities, etc.
- As described above, development of a pattern book or similar resource guide that documents and identifies existing elements of the community's design heritage that are widely valued.



Examples of projects from other communities – such as these from Newport, R.I. - elicited discussion among the Task Force on the difference between design attributes such as material, roof articulation, and detailing, and the basic size of projects. This type of discussion can help clarify issues, without participants focusing on particular projects in the community that may carry “baggage” due to their development history.

These strategies could be pursued individually, or as a combined effort, to maintain an open and clear community discourse, which is itself an important component of addressing the issues. A work effort to document the patterns that are valued by the community would be a significant contribution, and the product of the effort would be a resource for current and future decision makers. While such an undertaking would likely be Level of Effort 3, it could have collateral benefits, including potential use as a guide for area visitors.

Memorandum

To: Newport Planning Commission/Citizen Advisory Committee
From: Derrick Tokos, Community Development Director 
Date: September 4, 2014
Re: Strategies for Promoting the Construction of Student Housing

Oregon State University is constructing a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. The project is estimated to cost approximately \$50 million, and the University has secured about half of the needed funding. Construction is anticipated to begin in 2017 and will be completed in 2018.

Current vacancy rates for rental units in the City of Newport fluctuate between two and three percent. The City has a deficit of nearly 500 affordable housing units for households that earned less than \$25,000 and more than one-third of its households cannot afford a two-bedroom apartment at HUD's fair market rent level of \$759 (for the 2005-2009 reporting period).

The Newport City Council recognizes that it needs to get ahead of this planned expansion by working collaboratively with Oregon State University, Lincoln County, rental housing managers, developers, and other stakeholders to identify properties that are well suited for construction of rental units, and to identify strategies for attracting private investment to expand its supply of such units so as to avoid further market compression, which would likely price out a significant number of low to moderate income households. This could adversely impact other economic sectors in the community (e.g. retail, tourism, fish processing, etc.) through displacement of a workforce that would otherwise be available to those employers.

I have secured \$7,500 from the Department of Land Conservation and Development and Lincoln County has agreed to contribute an additional \$7,500. These funds will be used to retain a consultant to perform a study that will demonstrate that adequate land is available inside the city for the construction of student housing and identify sites most suitable for student housing. Further, the consultant will research strategies that are currently being pursued by communities to create incentives for private investment to construct the rental units and will make recommendations on strategies that are most suitable for the city to pursue.

The grant application includes a draft scope of work. I'll be working with the County and DLCD in the coming weeks to finalize the scope and would appreciate your thoughts as to whether or not what I have outlined is adequate or if there are other topics or issues that we should be considering.

Attachment

DLCD Grant Application

2014-2015

APPLICATION

OREGON COASTAL MANAGEMENT PROGRAM TECHNICAL ASSISTANCE/PRIORITY PROJECT GRANT



Please type or print clearly

Date: August 13, 2014

Applicant: City of Newport
Address: 169 SW Coast Hwy City: Newport Zip: 97365
Phone: 541-574-0626 Fax: 541-574-0644
Contact Person, Title: Derrick I. Tokos, AICP
E-mail address(es): d.tokos@newportoregon.gov
Amount Requested from DLCD: \$ 7,500 Grantee Share 7,500

Project Title: Development of Strategies for Promoting Development of Student Housing
BRIEF description of the project, 50 words or so. Be sure to state the expected results

Perform targeted updates to the Newport Comprehensive Plan to confirm the availability of land for construction of student housing, and to identify strategies for attracting private investment to construct student housing in advance of Oregon State University's planned expansion of the Hatfield Marine Science Center campus.

Keywords

(Check those that apply to the project)

<input type="checkbox"/> Information technology	<input type="checkbox"/> Coastal hazards	<input type="checkbox"/> Stormwater management
<input checked="" type="checkbox"/> Economic development	<input type="checkbox"/> Wetland & riparian resources	<input checked="" type="checkbox"/> Resource and land inventories
<input type="checkbox"/> Estuarine resources	<input checked="" type="checkbox"/> Marine resources	<input type="checkbox"/> Special Area Planning
<input type="checkbox"/> Transportation	<input checked="" type="checkbox"/> Public involvement	<input type="checkbox"/> Capital improvements planning

SUBMITTAL

Please submit all application information by US Mail, FAX, or e-mail to:

Diana Evans, OCMP Grants Coordinator diana.evans@state.or.us FAX 503-378-6033

Department of Land Conservation and Development

635 Capitol St. NE Suite 150 Salem OR 97301

Project Narrative

Please provide the information requested under each item. Although extensive, detailed information is not necessary, you need to provide enough information to help OCMP understand the project and make grant funding decisions.

1. Goals and Objectives:

State the goal(s) or overall purpose of the project. What is the problem, need, or opportunity that the project will address? Describe planning, technical, or information objectives that will help achieve the goal(s).

Oregon State University is constructing a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. The project is estimated to cost approximately \$50 million, and the University has secured about half of the needed funding. Construction is anticipated to begin in 2017 and will be completed in 2018.

Current vacancy rates for rental units in the City of Newport fluctuate between two and three percent. The City has a deficit of nearly 500 affordable housing units for households that earned less than \$25,000 and more than one-third of its households could not afford a two-bedroom apartment at HUD's fair market rent level of \$759 (for the 2005-2009 reporting period).

The City of Newport recognizes that it needs to get ahead of this planned expansion by working collaboratively with Oregon State University, Lincoln County, rental housing managers, developers, and other stakeholders to identify properties that are well suited for construction of rental units, and to identify strategies for attracting private investment to expand its supply of such units so as to avoid further market compression, which would likely price out a significant number of low to moderate income households. This could adversely impact other economic sectors in the community (e.g. retail, tourism, fish processing, etc.) through displacement of a workforce that would otherwise be available to those employers.

Newport's buildable lands inventory was last updated in 2011, so only a targeted update is needed to demonstrate that an adequate land supply exists and to identify sites most suitable for student housing. Much of the work will be focused on researching strategies that are currently being pursued by other college towns to identify a range of options that can be employed in Newport to create incentives for private investment to construct the rental units.

2. Scope of Work, Products, and Budget (attach additional pages if necessary):

a. Describe the scope of work to be performed. If the project is in phases, please note.

City would retain a consultant to assist it in updating the Housing Element of its Comprehensive Plan. The scope of work would include a review of the City's buildable lands inventory and existing housing policies; identification of lands suitable for student housing; analysis of the impact additional students and faculty will have on the existing rental inventory; research into public/private partnerships and incentives offered in college towns to address housing needs; and preparation of policies and strategies that can be pursued in Newport to promote the realization of additional student housing. Work product will include map and text amendments to the Newport Comprehensive Plan.

b. Schedule (e.g. when will work begin, project milestones, project end):

City is prepared to initiate the work as soon as grant funding is received. A consultant will be retained and Technical Advisory Committee (TAC) formed with the objective of having a draft report complete by the end of November. Adoption of a final draft will occur by the end of January 2015. Consultant will attend meetings with the TAC. A tentative schedule for the TAC might include: (1) kick-off and confirmation of project scope; (2) analysis of the impact of the additional students and faculty if no new rental housing is constructed; (3) review of buildable lands and identification of priority student housing sites; (4) partnerships and/or incentives that can be pursued to promote private investment in the construction of student housing; (5) review of draft student housing policies that can be pursued in Newport in light of the above. A second policy meeting may be needed with the TAC to ensure the consultant and staff receive adequate policy direction to finalize the necessary plan amendments.

c. Total Budget \$15,000

Please use the Budget Summary form on the next page, and any additional information as indicated in the footnotes.

3. Project Partners

List any partners such as other local governments, special districts, state agencies, or other entities. Briefly describe the role of each (e.g., will perform work under the grant; will advise; will contribute information or services, etc).

Partners will include Lincoln County, Oregon State University, Lincoln County Housing Authority and the Greater Newport Chamber of Commerce, along with representation from local developers, realtors, and members of the community engaged in the management of rental properties.

4. Match, Cost-Sharing, and Local Contribution (see page 4)

1:1 cost-sharing (match) is required on federally-funded coastal grants. Describe the type and list the amount of local contributions for the grant (see page four of this application). List other funding sources, if any, and amounts that support this project.

City of Newport and Lincoln County will provide the funding match.

5. Will work be performed by a consultant/contractor for all or part of this project?

X Yes _____ No

If yes, please describe the work to be performed by the consultant, list the anticipated amount of the contract, and provide name of prospective firm/consultant(s), if known, including address and telephone number.

Consultant will review the City's existing housing data, conduct research, and prepare meeting materials sufficient to provide the TAC with factual information and policy options in sufficient detail that they can provide policy guidance relative to the scope of work outlined above. Consultant will also prepare draft amendments to the Newport Comprehensive Plan in a format acceptable to the City. All meetings, agendas, and minutes will be coordinated and prepared by City staff. The City will also manage the plan amendment process. The City is not seeking reimbursement for its contributions.

Grant Budget Summary

NOTE: Please use the format in this table when developing a more detailed budget.

	Grant Request (from DLCD)	Grantee Match (Required)	Total Budget
Personal Services¹	_____	_____	_____
Supplies (if any)	_____	_____	_____
	\$7,500	\$7,500	\$15,000
Contract Services²	_____	_____	_____
Other³	_____	_____	_____
TOTAL⁴	_____	_____	_____

Budget notes:

- 1 List all personnel who will work on the project. Compute costs on the basis of the number of expected person-hours, hourly rate, and related payroll expenses for each.
- 2 Total Contract Services. Provide additional information on expected contract services under item 5 on page 2, above.
- 3 List Other expenses (e.g. printing or publishing, travel):
NOTE: all travel supported by this grant must conform to state travel rates (e.g. mileage, meals, etc).
- 4 The Total grantee match above will equal the Total Grant Request from DLCD (1:1 match). See attached for description of local contribution.

GRANT APPLICATION**page 4****Grantee Share Cost (Match) Information****Local or state “match” of Federal grants (CZM funds)** may consist of:

- a. **Cash** contributed by the grantee from non-federal revenues or donated to the grantee by non-federal third parties.
- b. **In-kind** contributions (see below) made by grantee and non-federal third parties.

Cash “match” must be:

- a. Identifiable from the grantee's records;
- b. Not included as contributions for any other grant or contract;
- c. Necessary and reasonable for proper and efficient accomplishment of project objectives; and
- d. Not borne by the federal government directly or indirectly under any federal grant or contract.

For instance, funds awarded to a local government from the US Army Corps of Engineers or US Fish and Wildlife Service cannot be used as “match” against this grant.

In-kind contributions are non-monetary goods and services, as listed below, specifically identifiable to the project. In-kind contributions may be made by the grantee, other public agencies, private organizations, appointed members of advisory committees, or individuals who work on the project, and include such items as:

- a. **Volunteer services** will be valued at different rates depending on the volunteer function. For specialty or professional services, use wage rates consistent with compensation paid for similar work in state and local government or at rates that reflect the grantee's local labor market. For volunteers who attend or participate in committees, workshops, please use the values established by http://www.independentsector.org/programs/research/volunteer_time.html.
- b. **Materials** include office supplies, lumber, paper, or other supplies directly related to the project. Contributed material value should be reasonable and based on fair market value.
- c. **Equipment, building, land, or office space**, including depreciation and use-charges for equipment and buildings and fair rental charges for land.
- d. **Employees of other organizations** at regular rates for which employees are normally paid, including fringe benefits (OPE) but excluding overhead.

Establishing the value of “in-kind” should use normal accounting procedures to establish value as follows:

- a. **Services** - Maintain a record of volunteer services: who, when, where, and why.
- b. **Documentation** - Document your method of computing at the hourly rate for personal services and the cost of materials, equipment, buildings and land charges.

Rate of local match paid out: Your non-federal share (match), whether cash or in-kind, is expected to be paid out at the same general rate as the state share (as per federal requirements on OCMP). In other words, at the half-way point in the project about half of the in-kind match shall have been expended. Exceptions to this requirement may be approved by the Grants Officer based on demonstration that the schedule of tasks for the project and the rate of local match for these tasks justifies a delayed payout of cash or accounting of in-kind contributions. In any case, the recipient must fulfill the non-federal cost share commitment over the life of the award.

Memorandum

To: Newport Planning Commission/Citizen Advisory Committee
From: Derrick Tokos, Community Development Director *DT*
Date: September 4, 2014
Re: Amending Title X of the Municipal Code Related to Electronic Message Signs

At its September 2, 2014 meeting, the Newport City Council initiated amendments to Title X of the Newport Municipal Code that will allow electronic message signs on publicly zoned properties and referred the matter to the Planning Commission so that it may develop appropriate standards regarding the time, place, and manner in which such signs can be installed. Further, the Council encourages the Planning Commission to consider any appropriate steps that can be done to reduce overall sign clutter in exchange for expanding message opportunities that electronic message signs can offer.

These steps have been taken by the Council in response to a request made by the Oregon Coast Council for the Arts (OCCA), which is interested in installing electronic message signs at the Performing Arts Center. The signs would replace existing display panels at the corner of Olive and Coast Street that house painted signs, which are swapped out manually. The Performing Arts Center property is under a P-1/"Public Structures" zoning designation. The topic was discussed at the Council's August 18, 2014 meeting and a copy of the minutes from that meeting are attached. Council members questioned how the school district was allowed to construct a sign at the high school considering that property is also publicly zoned. In short, it was constructed under an exemption that no longer exists and is now nonconforming. A more detailed summary of how the sign came to be installed is included in a staff summary that I provided the Council for its September 2, 2014 meeting (attached).

The City amended its sign code in 2012, at the request of ThomasFox Properties, LLC, to allow electronic message signs in certain commercial/industrial zones (Ord. No. 2037). This paved the way for Walgreens to install such a sign at the intersection of US 101/US 20. Electronic message signs have since been installed at other commercial locations along US 101. Ordinance No. 2037 does not allow such signs within marine zones (e.g. the bay front) or inside the Nye Beach Design Review District. This limitation was imposed by the Council at the time, following public testimony in opposition to such signage. The Performing Arts Center is within the Nye Beach Design Review District. A copy of Ordinance No. 2037 is enclosed.

For this work session, I am looking for your feedback on the process we should follow to amend the code. My sense is that we can move this forward expeditiously if you are comfortable with the existing parameters for electronic message signs. I could bring suggested revisions to a future work session, followed by a public hearing. Options for addressing sign clutter would be presented at that time as well.

Attachments

Relevant portion of August 18, 2014 Council Meeting Minutes
Staff summary for September 2, 2014 Council meeting
Ordinance No. 2037

MOTION was made by Busby, seconded by Beemer, to approve the Tourism Marketing Grant request, for a second year, as submitted by the Newport Symphony Orchestra for assistance with marketing and advertising the continuation of the expanded season that was initiated last year in the amount of \$5,000. The motion carried unanimously in a voice vote.

From the Oregon Coast Council for the Arts - Signage from the Oregon Coast Council for the Arts - Request to Initiate a Zoning Code Change to Allow for electronic Signs in a Public Zone. Hawker introduced the agenda item. Nebel reported that the Oregon Coast Council for the Arts has been involved in a multiphase capital campaign to enhance the Newport Performing Arts Center. He added that OCCA is currently beginning the next phase of improvements to the PAC which addresses the need for adequate signage. He stated that currently, the PAC utilizes four foot by eight foot sheets of plywood, with vinyl or hand painted images, on those signs. He noted that OCCA is interested in the installation of electronic versions of the signs that are currently used at the corner of Olive and Coast Streets. He added that the proposed signs would have the same general look but would be created electronically and allow multiple events to cycle through the panels to better reflect the large variety and number of performances at the PAC.

Nebel reported that since this is a city facility, OCCA is asked the city to review this specific request, and if the change is supported, to have the City Council initiate a zoning code change if necessary to allow for electronic signs in a public zones.

Allen asked whether the PAC would be paying for the upgraded sign through its budget. Nebel reported that OCCA would pay for the sign, but improvements to this facility are let as city contracts as it is a city building. Allen asked whether the ongoing maintenance of the sign would be funded by private fundraising. Nebel reported that this matter would have to be addressed in the management contract. Tokos noted that the Chamber is also on publicly-owned property. He added that the PAC is in the Historic Nye Beach Overlay Zone, noting that when the City Council was considering this zoning designation, it made a conscious choice not to allow these types of signs in Nye Beach or on the Bayfront. He encouraged Council to look at what can be done to reduce sign clutter.

MOTION was made by Sawyer, seconded by Busby, to support the concept of the signage upgrade for the Performing Arts Center, and direct staff to prepare a report with recommendations for the September 2, 2014 City Council meeting, on how to proceed with any zoning changes if necessary. Allen asked for clarification from OCCA regarding maintenance costs. The motion carried unanimously in a voice vote.

CITY MANAGER'S REPORT

Authorization to Submit a Request for an Oregon Coastal Management Program Technical Assistance Grant to Fund Development Strategies for Promoting the Construction of Student Housing. Hawker introduced the agenda item. Nebel reported that Oregon State University has announced its desire to construct a 100,000 square foot research education building as part of its initiative to expand the Hatfield Marine Science Center campus to accommodate 500 additional students and associated faculty. He added that to date, Oregon State University is projecting the cost for this facility at \$50



Agenda Item #
Meeting Date

September 2, 2014

CITY COUNCIL AGENDA ITEM SUMMARY

City of Newport, Oregon

Issue/Agenda Title Initiation of Amendments to Title X of the Municipal Code Related to Electronic Message Signs

Prepared By: Derrick Tokos Dept Head Approval: DT City Mgr Approval:

ISSUE BEFORE THE COUNCIL: Consideration of whether or not it is in the public interest for the City Council to initiate amendments to Newport Municipal Code (NMC) Title X to allow electronic message signs on publicly zoned properties within the City. This is in response to a request by the Oregon Coast Council for the Arts, who is interested in installing electronic message signs at the Performing Arts Center.

STAFF RECOMMENDATION: If the Council believes that it is appropriate to allow electronic message signs on publicly zoned property, then it will need to amend its Municipal Code to add appropriate language. NMC Title X regulates the time, place, and manner in which signs are permissible within the city limits. These types of design standards are land use regulations. NMC Chapter 14.36 outlines a process for initiating changes to land use regulations. They may be initiated by motion of the Council with subsequent referral to the Planning Commission. Public hearings must then be held before the Planning Commission and Council. If the Council proceeds in this manner, then staff recommends it instruct the Commission to explore how sign clutter can be reduced in conjunction with these changes.

PROPOSED MOTION: I move that the Council initiate amendments to Title X of the Newport Municipal Code that will allow electronic message signs on publicly zoned properties, and to refer the matter to the Planning Commission so that it may develop appropriate standards regulating the time, place, and manner in which such signs can be installed. In doing so, the Council encourages the Commission to consider steps that can be taken to reduce sign clutter in concert with the expanded messaging opportunities that electronic message signs can offer.

KEY FACTS AND INFORMATION SUMMARY: The Oregon Coast Council for the Arts (OCCA) is interested in installing electronic message signs at the Performing Arts Center. The signs would replace existing display panels at the corner of Olive and Coast Street that house painted signs, which are swapped out manually. The Performing Arts Center property is under a P-1/"Public Structures" zoning designation. Title X of the Newport Municipal Code, which contains the City's sign regulations, does not allow electronic message signs on public zoned property.

The City amended its sign code in 2012, at the request of ThomasFox Properties, LLC, to allow electronic message signs in certain commercial and industrial zones (Ordinance No. 2037). This allowed an electronic message sign to be installed at the new Walgreens store at the intersection of US 101 and US 20. Electronic message signs have since been installed at other commercial locations along US 101. Ordinance No. 2037 does not allow such signs within marine zones (e.g. the bay front) or inside the Nye Beach Design Review District. This limitation was imposed by the City Council following public testimony in opposition to such signage. The Performing Arts Center is within the Nye Beach Design Review District.

On August 18, 2014 the City Council considered OCCA's request that staff provide a report with recommendations outlining the steps it must follow to allow electronic message signs at the Performing Arts Center. This will require that Title X of the Newport Municipal Code be amended. Because Title X (i.e. the sign code) contains land use regulations, public hearings will be required before the Planning Commission and Council. Resulting changes to the code would be adopted by ordinance.

At the August 18th meeting, the Council asked if staff could provide background information on the electronic message sign at the high school, and why that sign is permitted to operate on public zoned property with flashing messages. The short answer is that the City sign code contained an exemption provision that the district qualified under. The City has no record of the sign's installation. Even though the sign was exempt from the City sign code, an electrical permit was required, and our Building Official should have been contacted to perform a footing inspection.

Rich Belloni, with the Lincoln County School District, has indicated that the sign was installed in 2006. An engineering report was prepared for the footings and J&J Electric was hired to do the wiring. The school district is prepared to obtain electrical and/or building permits "after-the-fact." It appears that the school district took prudent steps to ensure that the sign was installed appropriately; however, there may have been some confusion as to the permits required given that it wasn't subject to the City sign code at the time.

The exemption that the school district sign qualified under read as follows: "*signs, signals or notices erected or maintained for governmental purposes by or on behalf of a federal, state, or local governmental body, or agency thereof.*" This exemption was modified in 2007, after the sign at the high school was installed, to limit its scope. The new (current) language reads "*Signs erected or maintained by or on behalf of a federal state, or local government body. This exemption shall not apply to signs that are otherwise prohibited under Section 10.10.045 except when the sign is placed in a public right-of-way by the entity responsible for managing the public right-of-way as allowed under Section 10.10.040(C)(1).*" The cross-reference to 10.10.045 picks up a list of sign characteristics that the City has prohibited since it adopted a sign code back in 1971. The list has been updated from time-to-time over the years, and addresses such issues as moving parts, animations, flashing lights, or fluctuations in lighting of any manner. Use of lighting in signs is also required to be screened or shielded. In sum, these prohibitions prevent electronic message signs, except where they were recently authorized within certain commercial and industrial zones. The narrow allowance under 10.10.040(C)(1) is for signs placed by a governmental entity with responsibility for a public right-of-way, presumably for traffic control purposes.

Interestingly, the City included an exemption for federal, state, and local governments in its original sign ordinance. It later tightened the language up in 1989 in response to billboards being constructed on land that was being leased from the state. That is when the "for governmental purposes" clause was added. This did not prevent the school district sign, which led to the 2007 amendment being adopted.

The school district sign is non-conforming, meaning that it can be maintained to ensure that it is in a good and safe condition; however, if at any time the repair costs exceed 50% of the replacement value then the sign will have to be removed. If the City amends the sign code to allow electronic message signs in public zones, then the school district could have other options available to it once the sign needs to be replaced.

OTHER ALTERNATIVES CONSIDERED: Not amending the Municipal Code. Electronic message signs would continue to be prohibited in public zones.

CITY COUNCIL GOALS: There are no specific Council goals applicable to this request.

ATTACHMENT LIST:

- Ordinance 2037, adopted June 4, 2012

FISCAL NOTES: The public hearings before the Planning Commission and City Council must be noticed. There are associated costs; however, such costs are anticipated and included as part of the Community Development Department budget.

CITY OF NEWPORT

ORDINANCE NO. 2037

AN ORDINANCE AMENDING CHAPTER 10.10 OF THE NEWPORT MUNICIPAL CODE (ORDINANCE NO. 1943, AS AMENDED) RELATING TO ELECTRONIC MESSAGE SIGNS

Findings:

1. Chapter 10.10 of the City of Newport Municipal Code (Ordinance No. 1943, as amended) contains standards regulating the time, place and manner in which signs may be constructed in order to protect and promote the health, safety, and welfare of the public and to improve the aesthetic appearance of the City.
2. After the adoption of Newport Municipal Code ("NMC") Chapter 10.10, technology has advanced to allow types of signage, including electronic message signs, which were not contemplated at the time the City originally established its signage regulations.
3. Although NMC Chapter 10.10 is not technically part of the Newport Zoning Ordinance ("NZO"), the City Council finds that the signage regulations contained in this chapter are effectively "land use regulations" for purposes of ORS 197.015(11) because they implement the City's acknowledged comprehensive plan and are closely tied to the use and development of property. Accordingly, the Council finds that it is both consistent with state law and in the public interest to process the Amendment as a proposed text amendment to the NZO, which will provide additional notice, review, and opportunity for public comment than the City's standard ordinance adoption procedures.
4. Pursuant to NZO 2-6-1.010.D, the City reviews proposed NZO text amendments under the City's Type IV review process. This process requires a public hearing and recommendation by the City Planning Commission followed by the Council conducting a public hearing and making a legislative decision on the request.
5. Pursuant to NZO 2-5-5.010, a property owner or authorized representative may initiate a text amendment by petitioning the City. The Council finds that ThomasFox Properties, LLC ("Applicant"), an owner of property in the City, has filed the application form and paid the applicable fee to initiate this request. Therefore, the Council finds that the Amendment has been properly initiated.
6. On or about January 10, 2012, the City provided notice on the applicable form to the Oregon Department of Land Conservation and Development ("DLCD"), more than 45 days prior to the initial legislative public hearing for the Amendment before the Planning Commission. This mailing satisfied the City's pre-hearing obligations for notice to DLCD.
7. On February 17, 2012 and April 27, 2012, the City published notice of the Planning Commission and City Council hearings relating to the Amendment. The published notice ran in

the in the Newport News-Times and listed the dates, times, and places of the Planning Commission and Council hearings, which was March 26, 2012 and May 7, 2012, respectively. These notices satisfied the City's pre-hearing obligations for notice to the public.

8. On January 9, 2012 and February 13, 2012, the Planning Commission held work sessions on the Amendment. They reviewed sample codes from other jurisdictions that have adopted standards for electronic message signs and viewed illustrations and video of electronic message signs that have been installed pursuant to those codes. Following those discussions, the Commission chose to consider language that expands the proposed Amendment to allow electronic message signs in all commercial and industrial zones with limitations. Specifically, the Commission proposed a trade-off that reduces freestanding sign heights to 20 feet and limits properties to one freestanding sign where an electronic message sign is proposed. The applicant's proposal that the display area for electronic message signs be limited to 35% of the allowable sign area per sign face, that information be displayed for at least five (5) minutes before a change is made, and that when a change occurs the entire display must turnover within 2 seconds were accepted, as were other, more minor elements of the proposal. The Commission also recommended changes to allow the Council to set fees for signs by resolution.

9. On March 26, 2012, the Planning Commission conducted a public hearing to discuss the Amendment. The entire Community Development Department file on the application was physically before the Planning Commission. The Planning Commission did not reject any part of the Community Development Department file. Derrick I. Tokos, AICP, then presented the City Community Development Department staff report ("Staff Report"), which included a description of the proposed amendment and relevant approval standards. No testimony was provided in favor or in opposition to the Amendment. At the conclusion of the hearing, the Planning Commission closed the public hearing and discussed the Amendment. A motion was then made, and seconded, to recommend that the Council approve the legislative change and adopt the Amendment based upon substantial evidence in the record as a whole. The Planning Commission voted to approve the motion.

10. On May 7, 2012, the Council opened a public hearing on the Amendment. The entire Community Development Department file on the application was physically before the Council. The Council did not reject any part of the Community Development Department file. Mr. Tokos then presented the Staff Report. Following the presentation, the Council accepted public testimony. Testimony was received from Frank Geltner in favor of the Amendment. Testimony was provided by Carla Perry, Joyce Gaffin, and Janet Webster in opposition to the Amendment. Written comments in opposition were received from Ms. Perry and Fran Recht. Brett Fox, testified on behalf of ThomasFox Properties in favor of the Amendment. At the conclusion of public testimony, the Council closed the public hearing and discussed the Amendment. Based upon the Planning Commission recommendation, the evidence before the Council (which included the evidence before the Planning Commission), and oral and written testimony presented to the Council, a motion was made, and seconded, to direct staff to prepare an ordinance and findings of fact in support of the Amendment for Council consideration at its May 21, 2012 meeting. The Council desired that the ordinance clarify that electronic message signs will not be permitted within marine zoning districts and the Historic Nye Beach Commercial District. They also expressed an interest in language requiring electronic message signs be turned off when businesses are closed. The Council voted to approve the motion.

11. On May 21, 2012, the Council considered the ordinance and findings of fact in support of the Amendment. After deliberation, a motion was made and seconded to adopt the ordinance and findings of fact. The council voted to approve the motion.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The above findings and those outlined in Exhibit "A," are hereby adopted as support for the Amendments, below.

Section 2. Chapter 10.10 of Ordinance No. 1943 (as amended), Signs, is repealed in its entirety and replaced with a new Chapter 10.10, as shown in Exhibit "B."

Section 7. This ordinance shall take effect 30 days after its adoption.

Date adopted and read by title only: _____

Signed by the Mayor on June 4, 2012.

Mark McConnell
Mark McConnell, Mayor

ATTEST:

Margaret M. Hawker, City Recorder

FINDINGS OF FACT

Case File No. 1-Z-12

Legislative changes are reviewed to determine whether they are required by the public necessity and the general welfare, the policies of the Newport Comprehensive Plan (the "Plan"), the Statewide Planning Goals (the "Goals"), and any other applicable policies and standards adopted by the Council. For the reasons set forth below, the Council finds the applicable approval criteria met and adopts the Amendment.

A. The Public Necessity and General Welfare.

The Council finds that the public necessity and general welfare requires adoption of the Amendment for four reasons. First the Amendment will update the City's regulations to ensure that they do not unnecessarily prohibit a type of signs that was not technologically refined at the time the City adopted NMC Chapter 10.10. Currently, NMC Chapter 10.10 expressly permits certain types of signs and prohibits all others. As a result, any type of sign that was either not feasible or not contemplated from a technological standpoint at the time NMC Chapter 10.10 was adopted is currently prohibited. Electronic message signs, as defined in the Amendment, were not technologically refined at the time the City adopted NMC Chapter 10.10. As such, Chapter 10.10 prohibits electronic message signs. The Council finds that this prohibition to be antiquated.

Second, the Amendment may facilitate private economic development in the City by providing business owners an avenue for conveying information about products or services in a cost effective manner. Unlike conventional signs, electronic message signs do not require manual labor and expensive equipment to adjust content. Further, these signs do not utilize lettering that can be blown off or damaged by winds inherent to a coastal environment. The Applicant has advised that there is at least one potential end user of a property in the City's C-3 zoning district that has a strong desire to use this type of signage in conjunction with their new development.

Third, the Amendment will further the purpose and intent of the City's sign regulations. Among other things, the City's sign regulations are designed to improve the aesthetic appearance of the City, to prevent distraction of motorists, and to allow for the erection and maintenance of signs. NMC 10.10.010. The Amendment satisfies each of these purposes. It allows for the reasonable placement of electronic message signs, but it limits them to commercial and industrial zoning districts. Further, it places significant limits on the types of electronic message signs that are permitted. As set forth in the Amendment, the City's definition prohibits electronic message signs that contain or display animated, moving video, flashing, or scrolling messages. Further, these signs must remain static for five minutes and then accomplish a change within two seconds' time. In addition, they are limited to thirty-five percent (35%) of the total allowable sign area per sign face, must be turned off at the close of business, and are restricted to properties with only one freestanding sign that is no greater than 20 feet in height. These restrictions will ensure that the signs are installed and operated in a manner that is not distracting or dangerous but still

allows for reasonable communication of ideas or messages. Finally, updating the City's regulations may also improve aesthetics by facilitating the removal of nonconforming signage by property owners who have been awaiting the opportunity to implement the electronic message sign technology, and mitigating light pollution, once a business utilizing an electronic message sign is closed for the day.

Fourth, the Amendment is consistent with the requirements of the City's commercial and industrial zoning districts. These districts allow a range of uses, including office, retail sales and service, major event entertainment, light and heavy manufacturing, and most types of educational institutions. These districts are separated from residential areas and are concentrated along major thoroughfares. As a result, allowing electronic message signs as proposed by the Amendment will be both appropriately limited and compatible with the like type nature of surrounding development.

For these reasons, the City finds that the Amendment satisfies this criterion.

B. Consistency with Plan Goals and Policies.

This section addresses consistency with applicable goals and policies of the Plan. For the reasons set forth below, the City finds that the proposed Amendment satisfies these approval criteria.

a. Citizen Involvement (Goal 1 of the "Administration" section)

Goal 1 of the "Administration" section of the Plan (p. 285 et seq.) requires the City to involve citizens in the development and implementation of the City's Plan and its implementing ordinances. Policy 1 of this Goal further requires the City to develop methods of community outreach that encourage participation in the planning process. Policy 2 of this Goal further requires the City to encourage the participation of citizens in the legislative rather than quasi-judicial stage of plan development and implementation. The City has an acknowledged citizen involvement program and an acknowledged process for securing citizen input on all proposed text amendments. The process by which this particular Amendment was adopted is consistent with the procedures provided in the Plan and in the NZO. The City held duly noticed public hearings before the Planning Commission, on March 26, 2012, and the Council on May 7, 2012, in compliance with all applicable City procedures under NZO 2-6.

Therefore, the Council finds its review and implementation of the Amendment consistent with the identified goal and policies.

b. Economic Development (Goal 2 of the "Economic" section)

Goal 2 of the "Economic" section of the Plan (p. 115 et seq.) requires the City to promote the expansion of current businesses and to seek diversification through the relocation of new businesses to the community. Policy 1 of this Goal requires the City to work with local business

efforts seeking expansion or relocation to the Newport area. Adoption of the Amendment is consistent with this goal and policy because the Amendment may facilitate private economic development in the City, as noted earlier in these findings. The Council finds the Amendment consistent with the identified goal and policy.

Considering the above, the Council finds the Amendment consistent with the applicable goals and policies of the Plan.

C. Consistency with Statewide Planning Goals.

This section addresses consistency with the applicable Goals. As described below, the Council finds the Amendment consistent with the Goals.

a. Goal 1 - Citizen Involvement

Goal 1 requires every city and county to develop and implement a citizen involvement program. As the State Land Use Board of Appeals ("LUBA") has recognized, Goal 1 does not provide due process protections, nor does it dictate the conduct of local government hearings. Rather, the Oregon Revised Statutes govern the manner in which local authorities conduct hearings and the procedural requirements for such hearings. See ORS Chapter 227. When notice of a hearing is provided and public testimony considered, LUBA will find no Goal 1 violation.

The City has an acknowledged citizen involvement program and an acknowledged process for securing citizen input on all proposed plan amendments. These local processes thus comply with state mandates, and the Amendment was processed in a manner consistent with the Plan and the NZO. The Planning Commission and Council held duly noticed public hearings in compliance with local law and with the statutory procedures required under ORS Chapter 197. Therefore, the Council finds its review of the Amendment consistent with Goal 1.

b. Goal 2- Land Use Planning

Goal 2 requires consistency between local comprehensive plans and the Goals, that local comprehensive plans maintain internal consistency, and that the implementation of ordinances remain consistent with acknowledged comprehensive plans. Goal 2 also requires that planning authorities make land use decisions with adequate factual bases and coordinate with affected jurisdictions.

The Plan and the NZO, as well as the Goals and applicable statutes, provide policies and criteria for the evaluation of the Amendment. Compliance with these measures ensures an adequate factual basis for approval of the Amendment. As discussed elsewhere in these findings, the Amendment is consistent with applicable policies and standards. By demonstrating such compliance, the Amendment satisfies the consistency element of Goal 2.

The City is required under ORS 197.610 to forward a notice of the Amendment to DLCD at least 45 days before the first evidentiary hearing on adoption. The City provided the requisite notice to DLCD on January 10, 2012. No state agency comments were received. The Council finds its review of the Amendment consistent with Goal 2.

c. Goal 3 - Agricultural Lands

The Amendment does not affect any farm lands, and thus the Council finds Goal 3 inapplicable.

d. Goal 4- Forest Lands

The Amendment does not affect any forest lands, and thus the Council finds Goal 4 inapplicable.

e. Goal 5- Open Space, Scenic and Historic Areas, Natural Resources

The Amendment does not affect any open space, scenic and historic areas, or natural resources. Thus, the Council finds Goal 5 inapplicable.

f. Goal 6- Air, Water, and Land Resources Quality

Goal 6 seeks to maintain and improve the quality of the air, water, and land resources in the state. Because the proposal does not authorize any specific development at this time, there can be no direct impact to air, water, or land resources. Therefore, The Council finds the Amendment consistent with Goal 6.

g. Goal 7- Areas Subject to Natural Hazards

Goal 7 requires that planning authorities not locate development that could result in damage or loss of life in known areas of natural hazards and disasters without appropriate safeguards. Because the Amendment does not authorize any specific development at this time, it allows no development planned or located in known areas of natural hazards and disasters. The Council finds the Amendment consistent with Goal 7 in this instance.

h. Goal 8- Recreational Needs

The Amendment does not involve any designated recreational or open-space lands. Thus it does not affect access to any significant recreational uses in the area. The Council finds Goal 8 inapplicable in this instance.

i. Goal 9- Economic Development

Goal 9 requires that local authorities base their comprehensive plans and policies on an inventory of areas suitable for increased economic growth and activity, including for specified

land uses. Although the Amendment does not authorize any specific development activity, it provides a new medium for properties in commercial and industrial districts to communicate information. For the reasons explained above, this opportunity may facilitate economic development in the City consistent with Goal 9. The Council finds Goal 9 is satisfied in this instance.

j. Goal 10 - Housing

Goal 10 requires local governments to help provide for an adequate number of needed housing units and to encourage the efficient use of developable land within urban growth boundaries. The Amendment does not affect the provision or type of housing units in the City. Thus, the Council finds that Goal 10 is not applicable to the Amendment.

k. Goal 11 -Public Facilities and Services

Goal 11 creates guidelines for the timely, orderly, and efficient provision of public facilities and services, such as sewer, water, solid waste, and storm drainage. The Amendment does not specifically propose any new development that would utilize public facilities or services. Therefore, the Council finds Goal 11 inapplicable in this instance.

l. Goal 12- Transportation

Goal 12 requires that local governments provide and encourage a safe, convenient, and economic transportation system. Because the proposal does not authorize any specific development at this time, there can be no direct impact to transportation. Therefore, the Council finds the Amendment consistent with Goal 12. The City further finds that OAR 660-012-0060, the Transportation Planning Rule ("TPR") implements Goal 12. The Council addresses the TPR below.

m. Goal 13 - Energy Conservation

The Amendment does not impact any known or inventoried energy sites or resources. The Council finds Goal 13 inapplicable in this instance.

n. Goal 14- Urbanization

The Amendment does not involve a change in the location of the Urban Growth Boundary or a conversion of rural land to urban land. The Council finds Goal 14 inapplicable in this instance.

o. Goals 15- Willamette River Greenway

Goals 15 applies to the Willamette River Greenway and is; therefore, inapplicable.

p. Goals 16 – 19 – Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

These goals apply to inventoried and mapped coastal resources. Commercial and industrial zoned lands within the City are not located within estuary, beaches and dunes, or ocean resource areas. Some commercial and industrial lands are located within coastal shorelands, namely hotels and restaurants along Elizabeth Street and industrial sites west of Highway 101 in South Beach. The City's acknowledged shorelands overlay zone regulates new development in these areas, including installation of signs because they require a building permit. The shoreland overlay contains standards designed to ensure that new development does not adversely impact inventoried significant habitat, parks and outstanding natural areas, or public access points. The provisions of this overlay are adequate to ensure that any electronic message signs promulgated as a result of this Amendment will not adversely impact these resources. Given the above, the Council finds Goal 16-19 to be satisfied.

D. Oregon Administrative Rules

a. OAR 660-012-0060 (Transportation Planning Rule)

The TPR mandates that local governments impose mitigation measures when a land use regulation would "significantly affect an existing or planned transportation facility." OAR 660-012-0060(1). The Amendment is a land use regulation. A land use regulation that does not permit development that adds more traffic to the transportation system than could be permitted under zoning existing before the ordinance cannot "significantly affect" the transportation facility under the TPR. In the instant case, no specific development is proposed. Development of additional density and intensity is not allowed. Therefore, the Amendment will not add more traffic to the transportation system, and the Amendment will not have a significant effect on any transportation facilities.

Conclusion

The Council finds the Amendment consistent with applicable local and state laws. Further, the Amendment is warranted for several reasons. It is required by the public necessity and general welfare because it updates the NMC to permit a type of sign that was not contemplated at the time NMC Chapter 10.10 was adopted. Further, it may facilitate economic development in the City. Finally, it furthers the intent of the City's sign regulations and is consistent with the requirements of the City's commercial and industrial zoning districts. Thus, the City adopts the Amendment.

CHAPTER 10.10 SIGNS

10.10.005 Short Title

This chapter may be referred to as the Newport Sign Code.

10.10.010 Purpose

The purposes of the Newport Sign Code are:

- A. To protect and promote the health, safety, property, and welfare of the public, including but not limited to promotion and improvement of traffic and pedestrian safety.
- B. To improve the neat, clean, and orderly appearance of the city for aesthetic purposes.
- C. To allow the erection and maintenance of signs consistent with the restrictions of the Newport Sign Code.
- D. To prevent distraction of motorists, bicyclists and pedestrians.
- E. To allow clear visibility of traffic signs and signal devices, pedestrians, driveways, intersections, and other necessary clear vision areas.
- F. To provide for safety to the general public and especially for firemen who must have clear and unobstructed access near and on roof areas of buildings.
- G. To preserve and protect the unique scenic beauty and the recreational and tourist character of Newport.
- H. To regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs.

10.10.015 Scope

All signs shall comply with this chapter. Provided however, that any signs in the Agate Beach area annexed in 1998 shall comply also comply with Chapter 10.15, and in the event of an inconsistency between the two chapters, Chapter 10.15 shall prevail as to any property within the Agate Beach area.

10.10.020 Prohibited Signs

No sign may be erected, maintained, or displayed except as expressly authorized by this chapter.

10.10.025 Conflicting Provisions

If any provisions of this chapter conflict with any law or regulation requiring a sign or notice, the law or regulation requiring the sign or notice shall prevail.

10.10.030 Definitions

The definitions in this section apply in this chapter.

- A. **Adjacent** means immediately next to and on the same side of the street.
- B. **Awning** includes any structure made of cloth, metal, or similar material with a frame attached to a building that may project outwards but can be adjusted to be flat against the building when not in use.
- C. **Building** shall include all structures other than sign structures.
- D. **Bulletin Boards**. A bulletin board is a surface for posting posters, cards, or notices, usually of paper, and not illuminated or electrical.
- E. **Business** means the premises where a duly licensed business is conducted. Multiple businesses conducted within the same premises shall be subject to the same limits as would a single business on the same premises.
- F. **Canopy** includes any structure made of cloth, metal, or similar material projecting out from a building that is fixed and not retractable.
- G. **Clearance** is the distance between the highest point of the street, sidewalk, or other grade below the sign to the lowest point of the sign. (See Exhibit A.)
- H. **Display Area** means the area of a regular geometric figure that encloses all parts of the display surface of the sign. Structural supports that do not include a display or

message are not part of the display area.

- I. **Erect** means to build, attach, hang, place, suspend, paint, affix, or otherwise bring into being.
- J. **Externally Illuminated Sign** is a sign illuminated by an exterior light source that is primarily designed to illuminate the sign.
- K. **Face** means any part of a sign arranged as a display surface substantially in a single plane.
- L. **Grade** means the surface of the ground at the point of measurement. Height shall be measured from the lowest point of the grade immediately below the sign or any sidewalk or street within 5 feet of the sign and the top of the sign.
- M. **Internally Illuminated Sign** shall mean a sign illuminated by an interior light source, which is primarily designed to illuminate only the sign.
- N. **Multiple Business Property** means a property used for business or commercial purposes under a single ownership or control and containing less than 40,000 square feet of land area and on which three or more separate businesses or commercial enterprises are located.
- O. **Painted** includes the application of colors directly on a wall surface by any means.
- P. **Person** means individuals, corporations, firms, partnerships, associations, and joint stock companies.
- Q. **Premise** means a lot, parcel, or tract of land.
- R. **Reader Board** is a sign designed so that the contents of the sign face may be physically or mechanically changed, but does not include electronic message signs.
- S. **Shopping Center** means any property used for business or commercial purposes under a single ownership or control having at least 40,000 square feet of land area and on which are located business or commercial improvements containing at least 20,000 square feet of floor space.

T. **Sign** means any medium, including structure and component parts, which is used or intended to be used to display a message or to attract attention to a message or to the property upon which such sign is located.

1. **Electronic Message Sign** means a permanent sign consisting of text, symbolic imagery, or both, that uses an electronic display created through the use of a pattern of lights in a pixilated configuration allowing the sign face to intermittently change the image without having to physically or mechanically replace the sign face, including an LED (Light Emitting Diode) sign, as distinguished from a static image sign.

42. **Freestanding Sign** means any sign ~~not permanently~~ attached to the ground that is not affixed to any structure other than the sign structure.

a. **Pole Sign** means a freestanding sign that is mounted on a pole or other support that is not as wide as the sign.

b. **Monument Sign** means a freestanding sign in which the sign structure is at least as wide as the sign.

23. **Mural Sign** means a sign that is painted directly on the wall of a building or retaining wall, without any sign structure or additional surface.

34. **Portable Sign** means a sign that is not attached to the ground or any structure and is movable from place to place. "Portable sign" does not include any sign carried or held by an individual.

45. **Projecting Sign** means a sign attached to the wall or roof of a building with a sign face that is not parallel to the wall or roof.

56. **Roof Sign** means a sign attached to a roof of a building, or a sign attached to a wall of a building but extending above the top edge of the wall where the sign is located.

67. **Temporary Sign** means any sign, regardless of construction materials, that is not permanently

mounted and is intended to be displayed on an irregular basis for a limited period of time

~~78.~~ **Wall Sign** means any sign attached to a wall of a building that does not extend above the wall of the building and is parallel to and within one foot of the wall.

~~89.~~ **Window Sign** shall mean any sign placed inside or upon a window facing the outside and which is visible from the exterior.

U. **Sign Business** means the business of constructing, erecting, operating, maintaining, leasing, or selling signs.

V. **Sign Structure** means the supports, upright braces, and framework of the sign.

10.10.035 Application, Permits, and Compliance

A. Except as exempted by this chapter, no person shall erect, replace, reconstruct, move, or remove any permanent sign without a sign permit, or place a temporary or portable sign without a sign permit. All signs shall comply with this chapter and any other applicable law. Any sign permit may be withdrawn for violation of this chapter or any other applicable law.

B. Written applications on city forms are required. The applicant shall provide the following information:

1. Name, address, and telephone number of the applicant.
2. Proposed sign location, identifying the property and any building to which the sign will be attached.
3. A sketch, plan, or design showing the method of attachment, structure, design, and such other information necessary to allow a determination of compliance. Nothing in this section requires the applicant to provide any information regarding the content of any message displayed on the sign.
4. Grade, height, dimensions, construction materials, and specifications.

5. Underwriter Laboratories certification in the case of an electrical sign.
 6. Name and address of the person, firm, corporation, or other business association erecting the structure.
- C. The city shall issue a sign permit based on a determination that the proposed sign complies with this chapter and other applicable law. Construction of the sign must be completed within 90 days after issuance of the sign permit. An extension of the 90-day period may be granted. If a sign was partially constructed and not completed within the 90-day period or any extension, the partially completed work shall be removed. Permits shall specify the location, size, and type of sign, and any conditions applicable to the sign. Permits for temporary signs and portable signs in rights of way shall specify the duration of the permit and/or the times when the signs may be in place.
- D. When electrical permits are required, they shall be obtained and the installation approved prior to making connection to the electrical power source.
- E. Permit fees shall be established by resolution of the City council, and paid with submission of the sign permit application, as follows:
1. For the erection, placement, replacement, reconstruction, or relocation of a sign, ~~a fee of \$100. Such fee shall be supplemented by a surcharge. A supplemental fee of \$100.00 shall be charged for the initial permit~~ for a mural sign that exceeds the maximum permissible size for a wall sign in the same location. Non-profit organizations are exempt from the requirement to pay the supplemental fee for a mural sign.
 2. For the repair, demolition, or removal of an existing sign and/or its supporting structure, ~~no fee.~~
 3. For temporary signs placed in the right of way, ~~a fee of \$25.00 per sign for the first sign and \$10.00 per sign for each additional sign.~~ Non-profit organizations are exempt from the requirement to pay this fee.
 4. For portable signs placed in the right of way, ~~a fee of~~

~~\$25.00 per sign per application for the first sign and a fee of \$10.00 per sign for each additional sign. Such a fee for use of the right-of-way of \$25.00 per shall include a monthly per sign with a maximum of \$100.00 per year shall also be charged for use of the public right-of-way. Non-profit organizations are exempt from the requirement to pay either fee required by this section.~~

10.10.040 Signs in Public Rights-of-Way

- A. Except as provided in this section, permanent signs wholly located within rights-of-way are prohibited. A sign permit does not allow a sign to project into any part of any public right-of-way unless expressly stated in the permit. Each applicant shall determine the location of the public right-of-way and whether any proposed permanent sign will project into any public right-of-way. Any sign permit that allows a sign projecting into any public right-of-way shall be revocable at any time by the city with or without cause.
- B. Permits are required for temporary or portable signs within rights-of-way and may be issued only if authorized in this section.
 1. Permits for temporary and/or portable signs in rights-of-way may be granted if the sign is to be in place for no more than five consecutive days and no more than 10 total days in a calendar year.
 2. Permits for portable signs within rights-of-way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:
 - a. On SW Coast Highway between SW Angle Street and SW Fall Street.
 - b. On SW Bay Boulevard between SW Naterlin Drive and SW Bay Boulevard. On Bay Boulevard between SW Bay Street and SE Moore Drive.
 - c. On Hurbert Street between SW 7th Street and SW

9th Street.

- d. In the area bounded by Olive Street on the south, NW 6th Street on the north, SW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.
- e. On SE Marine Science Drive/SE OSU Drive between SE Pacific Way and Yaquina Bay.
- f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40th Street and north of the intersection of Highway 101 and 50th Street.

(Chapter 10.10.040(B.)(2.)(f.) was added by the adoption of Ordinance No. 2001, adopted on March 16, 2010; effective April 15, 2010.)

- 3. Permits may be granted under Subsections B.1 and B.2 of this section only if:
 - a. The sign is not within any vehicle travel lane;
 - b. The sign does not restrict clear vision areas at intersections and driveway access points; and
 - c. The sign does not prohibit pedestrian movement on a sidewalk.
- C. The following signs are exempt from the prohibitions and requirements of this section:
 - 1. Sign placed by the city or other governmental entity with responsibility for the right-of-way.
 - 2. Permanent signs placed in a location where allowed by a license or easement from the city to an adjacent property owner to occupy the right-of-way. Signs allowed by this exemption must comply with all other requirements of this chapter, and the display area of the signs will be included in the calculation of the maximum display area of the adjacent property.

3. Signs not exceeding one square foot on a pole in the right-of-way placed on the pole by its owner.
- D. Signs placed in ODOT right-of-way may also require approval from ODOT.
- E. No permit may be issued for a sign in the right-of-way unless the applicant provides proof of liability insurance in an amount determined to be sufficient by the city manager.

(Section 10.10.045 amended by Ordinance No. 1986, adopted on September 8, 2009; effective October 8, 2009.)

10.10.045 Prohibited Signs

No sign shall be constructed, erected, or maintained:

- A. That uses lights unless effectively screened, shielded, or utilized so as not to direct light directly into the eyes of motorists traveling on any street or highway.
- B. That includes any single light bulb that creates more light than a 60 watt incandescent bulb.
- C. That uses neon tubing on the exterior surface of a sign for sign illumination where the capacity of such tubing exceeds 300 milliamperes rating for white tubing or 100 milliamperes rating for any other color of tubing.
- D. That uses flashing or intermittent light.
- E. That uses any type of rotating beacon light, zip light, or strobe light, or any light not directed to or part of the illumination of the sign.
- F. That uses wind-activated devices or devices which flutter in the wind, such as propellers, but excluding flags, banners, and pennants.
- G. That is flashing, blinking, fluctuating, or animated, that has parts that are flashing, blinking, fluctuating, or animated; or that includes similar effects.
- H. That uses a guy wire for support of a sign, except where there exists no other means of support for a sign otherwise conforming to the requirements of this chapter.

- I. That has any visible moving parts, visible revolving parts, visible mechanical movement of any description, or any other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations or movement or action by wind currents.
- J. That is erected at the intersection of any street that substantially obstructs free and clear vision of motorists, pedestrians and cyclists, or at any location where it may interfere with, obstruct, or be confused with any authorized traffic sign.
- K. While subject to these prohibitions, this section shall not be construed to prohibit electronic message signs where expressly permitted elsewhere in this chapter.

10.10.050 Height and Dimensional Requirements

- A. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.
- B. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:
 - 1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.
 - 2. Fifty feet or the width of the wall for wall sign horizontal dimension.
 - 3. Except as otherwise provided by the chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

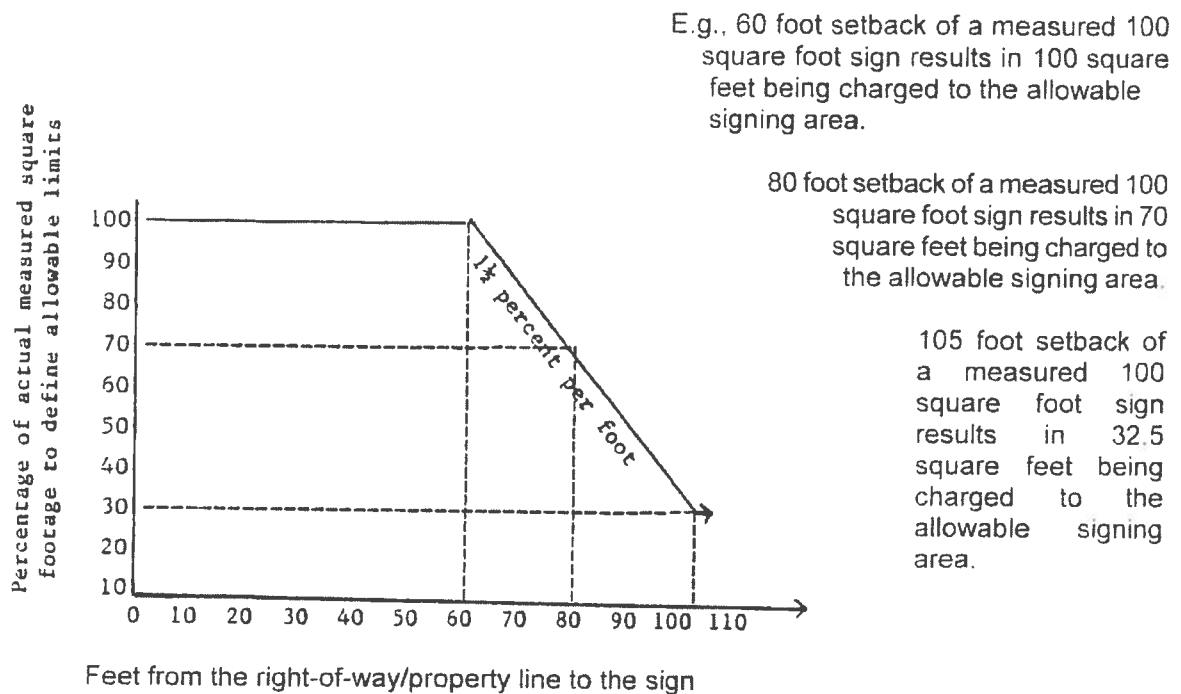
10.10.055 Projection and Clearance

- A. Signs shall not project more than 3 feet over any public right-of-way, and in no case shall be within 2 feet of a traveled roadway.
- B. The minimum clearance of any sign over driveways, parking lots, or public right-of-ways is 16 feet, excepting

that the minimum clearance of any sign over a sidewalk is 8 feet, unless the sidewalk is used as a driveway.

10.10.060 Number and Area of Signs

- A. Each right-of-way frontage of a business shall be limited to only one projecting or freestanding sign unless the frontage exceeds 200 lineal feet, in which case one additional freestanding or projected sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted. Other signs are not limited in number unless specifically limited or restricted elsewhere in this chapter.
- B. Each street frontage of a business shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs. Freestanding and projecting signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
 - 1. The maximum total area of wall signs is two square feet of sign area for each lineal foot of street frontage.
 - 2. The maximum total area for freestanding and projecting signs is one square foot of display area for each lineal foot of street frontage.
- C. Notwithstanding any limitation on total sign area, each separate business is allowed at least 50 square feet of display area.
- D. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



e.g., 60-foot setback of a measured 100 square foot sign results in 100 square feet being charged to the allowable sign area.

80 foot setback of a measured 100 square foot sign results in 70 square feet being charged to the allowable sign area.

105 foot setback of a measured 100 square foot sign results in 32.5 square feet being charged to the allowable sign area.

10.10.065 Exempt Signs

The following signs are exempt from regulation under this chapter:

- A. Signs erected or maintained by or on behalf of a federal, state, or local governmental body. This exemption shall not apply to signs that are otherwise prohibited under Section 10.10.045 except when the sign is placed in a public right-of-way by the entity responsible for managing the public right right-of-way as allowed under Section 10.10.040 (C)(1).
- B. Signs not visible from a public right-of-way or from property other than the property where the sign is

located. For purposes of this section, "property where the sign is located" includes all property under common ownership," and "visible" means that the sign face is visible.

10.10.070 Partially Exempt Signs

- A. The following signs are exempt from the permit requirement and, except as expressly provided to the contrary, do not count towards maximum display area:
1. One sign not exceeding two square feet on each property with a separate street address, placed flat against the building.
 2. In a residential zone on a property where a home occupation is legally conducted, a non-illuminated sign not exceeding two square feet in area, placed flat against the building.
 3. Signs placed on post boxes.
 4. Non-illuminated signs on private property oriented towards internal driveways and parking areas, not to exceed 3 square feet in area.
 5. Signs that are an integral part a building, including those cut into any masonry surface, as well as signs integrated into the structure of a building constructed of bronze or other non-combustible materials.
 6. Signs placed within a public right of way place by the public entity with responsibility for administering the right of way.
 7. Flags.
- B. Each religious institution is allowed to have, in addition to signage otherwise allowed, additional signage not to exceed 48 square feet in area, including each face of any multiple faced sign. No single sign face may exceed 24 square feet, except reader boards, which may not exceed 32 square feet and bulletin boards, which may not exceed 16 square feet. The sign(s) allowed by this subsection are exempt from the maximum total display area standard.

- C. Each community center and educational institution is allowed one reader board not exceeding 32 square feet in area in addition to other allowed signs. The sign allowed by this subsection is exempt from the maximum total display area standard.
- D. Temporary signs complying with all of the following are permitted in all zones without a permit, in addition to any other permitted signs:
 - 1. The signs must be entirely on private property and outside of any vision clearance areas.
 - 2. The signs do not exceed 20 square feet of display area or any horizontal or vertical dimension of 8 feet.
 - 3. The signs are not erected more than 90 days prior to the date of an election and they are removed within 30 days after the election.
 - 4. They are erected or maintained with the consent of the person or entity lawfully in possession of the premises and any structure to which they are attached.
- E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored, or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

(Chapter 10.10.070(E.) was added by the adoption of Ordinance No. 2001 on March 16, 2010; effective April 15, 2010.)

10.10.075 Roof Signs

One roof sign per business property is permitted.

10.10.080 Signs at Subdivision Entrances

One permanent sign per subdivision entrance not to exceed 16 square feet in area is permitted. Signs at subdivision entrances may be illuminated but which shall not obstruct any required vision clearance area.

10.10.085 Vehicle Signs

Any sign attached to or imprinted upon a validly licensed motor vehicle operating legally upon the streets and highways of the State of Oregon is exempt from this chapter while the vehicle is traveling upon any street or highway, or while such vehicle is parked to carry out an activity incidental to interstate commerce, but is otherwise not exempt unless:

- A. The sign is painted or otherwise imprinted upon, or solidly affixed to, the surface of the vehicle, with no projection at any point in excess of 6 inches from the surface of the vehicle.
- B. The vehicle, with the sign attached, complies with all applicable requirements of the Motor Vehicle Code required for the lawful operation thereof.

10.10.090 R-1, R-2, and R-3 Residential Districts

In all R-1, R-2, and R-3 residential districts, the following signs are allowed:

- A. One non-illuminated sign not exceeding 2 square feet.
- B. One non-illuminated temporary sign not exceeding 8 square feet in area.
- C. One non-internally illuminated sign not exceeding 20 square feet in area placed flat against the building for each apartment complex.

10.10.095 R-4 Residential District

In an R-4 residential district, the following signs are allowed:

- A. For residential uses, signs allowed in the R-1, R-2 and R-3 districts.
- B. For hotels, motels, recreational vehicle parks, and movie theaters, no more than two illuminated signs that do not exceed 100 square feet in total area. The signs may be internally or externally illuminated, but may not include electronic message signs.
- C. For all other uses, a maximum of 20 square feet of sign area per street frontage. The maximum area shall be a

combination of wall and freestanding signs. Freestanding signs shall be set back a minimum of 10 feet from all property lines and shall not exceed 8 feet in height. No sign may be internally illuminated.

10.10.100 Commercial, Industrial, and Marine Districts

In commercial, industrial, and marine zoning districts, the following signs are allowed:

- A. The total area for wall signs shall not exceed two square feet of display area for each lineal foot of street frontage of the street.
- B. The total area for projecting and freestanding signs shall not exceed one square foot of display area for each lineal foot of street frontage. One projecting or freestanding sign is allowed for each 100 feet of street frontage, unless the property contains an electronic message sign, in which case only one freestanding sign is permitted.
- C. Each frontage of a business shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 100 lineal feet of street frontage.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Except within marine zoning districts or the Historic Nye Beach Design Review District, electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
 - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
 - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision does not apply to the display of time, date and temperature information.

3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
4. Is not illuminated during hours the business is closed.
5. Does not contain or display animated, moving video, flashing, or scrolling messages.
6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
7. Automatically adjusts the intensity of its display according to natural ambient light conditions.

~~EE.~~ Mural signs ~~are permitted.~~

10.10.105 Signs in Shopping Centers

For shopping centers and multiple business properties, the number and size of signs are governed by this section, notwithstanding the provisions of the underlying zone.

- A. The maximum number of freestanding signs on shopping center properties is two and the maximum number of freestanding signs on multiple business properties is one.
- B. The maximum number of wall signs for shopping centers and multiple business properties is one per street frontage.
- C. For both shopping centers and multiple business properties, the maximum total area display area of all freestanding and wall signs and is one square foot for each lineal foot of street frontage, with a maximum of 200 square feet per sign. Only one side of a double-faced freestanding sign shall be including in the calculation of display area, provided that the sign faces are 180 degrees opposed and separated by two feet or less.
- D. In addition to the signs allowed by subsections A through C, each individual business may erect wall signs on the premises controlled by the individual business of up to two square feet of display area for each lineal foot of frontage. For the purposes of this subsection, the term frontage means the distance, measured in a straight line, along any one wall of the business premises facing and providing public access to the separate premises of the

business. Where a business has entrances allowing public access on more than one frontage, wall signs may be erected for each frontage, but the display area maximum shall be calculated separately for each frontage.

- E. The permit, size, area, and number restrictions do not apply to any signs in shopping centers and multiple business properties that are not visible from the public right of way or adjacent property.

10.10.110 Construction and Safety Requirements

All signs shall be well constructed in accordance with all applicable codes and requirements of law and shall be maintained in a safe, neat, and clean condition. Signs that are not in good repair or condition through deterioration or other reasons are prohibited and shall be either repaired or removed. If not repaired or removed by the owner, signs that are not in good repair or condition may be abated as authorized by this code.

10.10.115 Dangerous and Abandoned Signs

- A. Any sign or structure that is a nuisance or a dangerous structure may be abated as provided by city ordinances governing nuisances and dangerous structures. If the city manager or building official determines that any sign or sign structure constitutes an immediate threat, danger, or hazard to life, health, or property, the city manager or building official take any action necessary to immediately abate the risk, pursuant to the police power of the City of Newport and without prior notice.
- B. Any sign that has been abandoned or reasonably appears to be abandoned constitutes a hazard and may be abated as provided in Subsection A.

10.10.120 Removal of Signs in Rights-of-Way

Any unauthorized sign in a public right-of-way may be removed immediately without notice by the city and removed to a place of storage. A notice of removal shall be sent to any owner of the sign known to the city, notifying the owner that the sign will be destroyed unless the owner claims the sign within 20 days of the notice. If the owner is unknown to the city, no notice is required and the sign may be destroyed if

unclaimed after 20 days from the date of removal. No sign removed from the right-of-way shall be returned to the owner unless the owner pays a removal fee to the city in an amount set by Council resolution. If the city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of any sign left in the right-of-way without notice.

10.10.125 Remedies

A sign erected or maintained in violation of this chapter is a nuisance and a civil infraction. The city may pursue any one or more of the legal, equitable administrative and self-help remedies legally available to it. All remedies of the city, both as a governmental body and otherwise are cumulative.

10.10.130 Nonconforming Signs

- A. The purpose of this section is to discourage nonconforming signs and to work toward eliminating or removing nonconforming signs or bringing them into conformity with this chapter. Nonconforming signs shall not be enlarged, expanded or extended, nor used as grounds for adding other structures or signs otherwise prohibited.
- B. A nonconforming sign may not be altered as to size, message, or construction, except that common and ordinary maintenance to maintain the sign in a good and safe condition is allowed, including incidental structural repair or replacement.
- C. If a nonconforming sign is damaged or destroyed by any cause including normal deterioration to the extent that the cost of repair shall exceed 50% of the replacement value of the sign, the sign may not be repaired or restored, and may be replaced only by a sign conforming to the provisions of this chapter.

10.10.135 Content and Interpretation

This chapter and Chapter 10.15 do not regulate the content of signs and shall be interpreted as not regulating content. These chapters shall be interpreted if at all possible to be consistent with constitutional protection of expression, and any provision that unconstitutionally restricts expression shall not be enforced, and the remainder of the provisions shall

continue to be applicable and shall be applied constitutionally.

10.10.140 Variance Requirements

Any person may seek a variance to the numerical provisions of this chapter or of Chapter 10.15 by filing a written application. The procedure and process applicable to zoning variances (including but not limited to the notification process, public hearing process, conditions of approval, time limitations, and revocation of permits as applicable for the type of variance requested) shall be followed. The fee for a variance shall be the same as for a zoning variance. The criteria for the sign variance shall be as specified below. In addition to the requirements for submitting a zoning variance, a sign inventory including the location, type, and size of each sign on the property shall be submitted with the variance application.

- A. All sign variance applications that propose to increase the number or size of signs or propose a variance from any other numerical standard shall be determined by the Planning Commission using the zoning Type I Variance procedure, based on a determination that the proposed variance is the minimum necessary to alleviate special hardships or practical difficulties faced by the applicant and that are beyond the control of the applicant.
- B. All sign variance applications based on a change in a sign or signs that decreases but does not eliminate an existing nonconformity shall be determined by the community development (planning) director using a Type II Variance procedure, based on a determination that the proposed variance will result in a reduction of the nonconformity without increasing any aspect of nonconformity.

10.10.145 Violations

A violation of this chapter or of Chapter 10.15 is a civil infraction, with a civil penalty not to exceed \$500. The penalty for a second or subsequent violation within two years may be up to \$1,000. A violation occurs on the date of the occurrence of the act constituting the violation. Each violation is a separate infraction, and each day in which a violation occurs or continues is a separate infraction.