

14.23.001 HISTORIC BUILDINGS AND SITES

14.23.010 Purpose. The purpose of this Section is to assure that alteration, removal, conflicting uses, and energy and environmental consequences are carefully considered when such changes are proposed.

14.23.020 Notice. Notice of intent shall be published for two consecutive weeks in the News-Times or other local newspaper prior to a hearing by the Planning Commission.

14.23.030 Hearing Required. In addition to the provisions of this Section 14.23.001, the Planning Commission shall conduct a public hearing in accordance with the provisions of Section 14.33.001, Conditional Uses, and Section 14.43.001, Procedural Requirements.*

- A. Any exterior alteration involving structural changes, or changes which would detract or destroy historic architectural features (such as changes in windows, doors, siding, or roofing) shall require a public hearing. Such hearing shall only be required for buildings or structures listed in the Comprehensive Plan as being significant historical resources which should be preserved. Painting of a structure or repair using materials which restore the building to its original character shall not require a public hearing. Interior alterations shall not require a public hearing unless such changes would be evident on the exterior of the structure.
- B. Where such changes would have a negative effect on a significant historical resource, a delay of up to 60 days may be required by the Planning Commission so that alternative solutions may be examined.

14.23.040 Alterations Prohibited.** No changes shall be made if the Planning Commission determines that such changes would detract from or destroy historic buildings or architectural features of a building determined to be of substantial and significant architectural importance. (See Chapter 2, Physical and Historical Characteristics, of the Comprehensive Plan.)

*(*Amended by Ordinance No. 1989 (1-1-10).*

***Amended to correct scrivener's error by Ordinance No. 1790 (7-6-98).)*

14.24.001 BEACH AND SAND DUNE AREAS*

14.24.010 Purpose. The purpose of this section is to assure that the sensitive nature of beach and dune landforms is recognized and that development in these areas is designed so as to protect important natural values and reduce hazards to life and property.

14.24.020 Applicability. Compliance with the approval criteria contained in this section is required for development proposed within beach or dune areas identified on the Ocean Shorelands Map contained in the Comprehensive Plan.

14.32.030 Procedure for Review**

- A. Applications for land use actions in beach and dune areas shall be accompanied by a site-specific report prepared by a qualified expert. Beach and dune site reports shall conform to the requirements set forth in Section 14.32.040.
- B. Site reports for beach and dune areas shall be reviewed in accordance with the review requirements for the land use action being proposed (e.g. building permit, subdivision, etc.).
- C. Upon acceptance of the application, the Community Development Department shall process the request in accordance with a Type II Land Use Action decision process consistent with Section 14.43.020.

14.32.040 Site Report Requirements. Site reports for land use actions in beach and dune areas shall, at a minimum, address the following considerations:

- A. The type(s) of dune forms to be affected by the proposed development (e.g. active foredunes, interdune areas, older stabilized dunes, etc.).
- B. The type of use proposed and the adverse effects it might have on the site and adjacent areas.
- C. Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.
- D. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation.
- E. Methods employed to minimize adverse environmental

effects on the site and surrounding area.

- F. Methods employed to adequately protect the proposed development from geologic hazards, wind erosion, undercutting, ocean flooding, and storm waves.

14.24.050 Review Criteria.^{***} Development other than residential, commercial, or industrial may be allowed only if the following criteria are complied with:

- A. The type of use proposed and the adverse effects it might have on the site and adjacent areas;

(Section amended by Ordinance No. 1344 (11-7-83).*

*** Amended to correct scrivener's error by Ordinance No. 1790 (7-6-98).*

**** Subsection added by Ordinance No. 1622 (10-7-91).)*

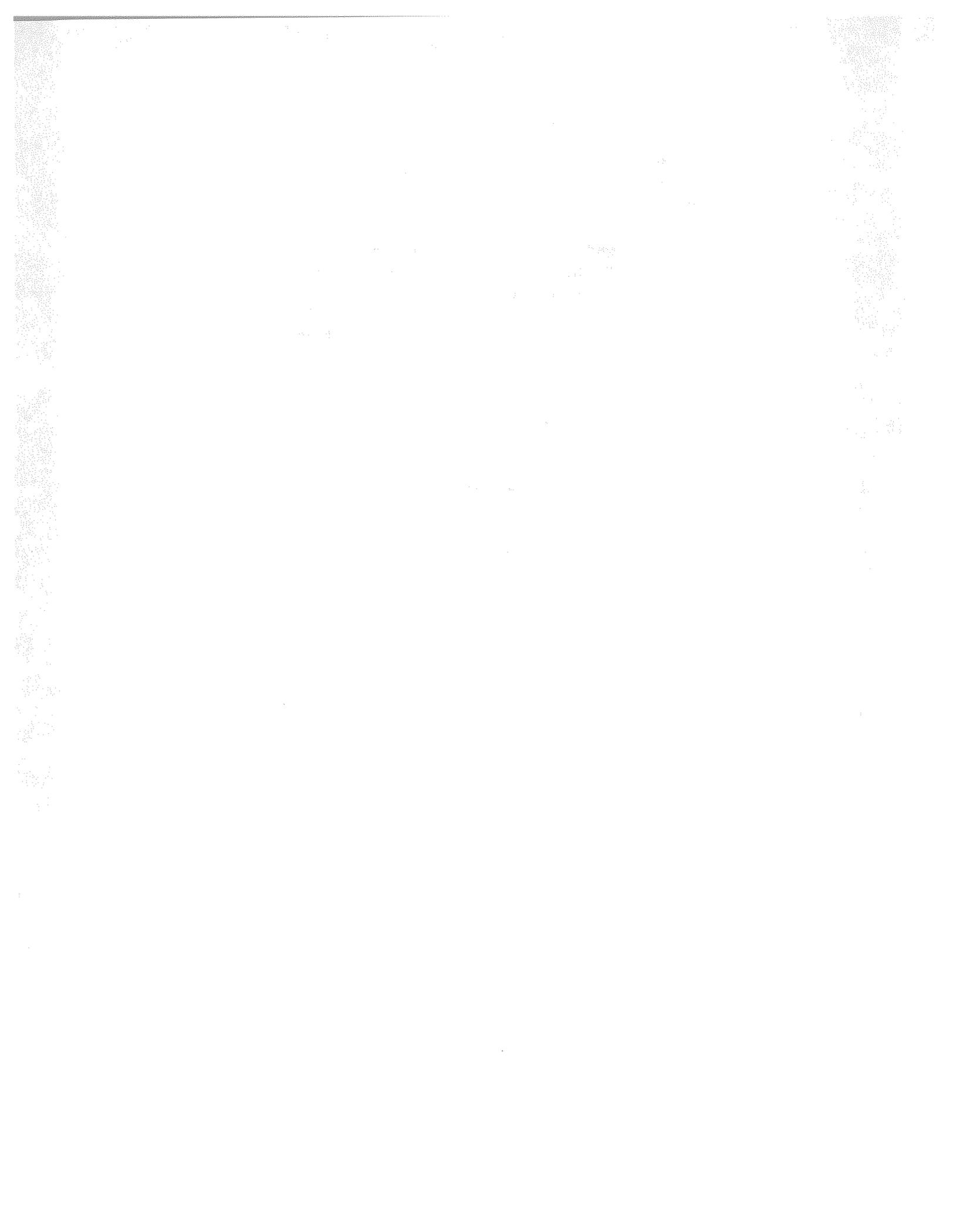
- B. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;

- C. Methods for protecting the surrounding area from any adverse effects of the development;

- D. Hazards to like, public and private property, and the natural environment which may be caused by the proposed use;

- E. Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding, and storm waves, or is of minimal value; and

- F. Is designed to minimize adverse environmental effects.



14.25.001 BED AND BREAKFAST FACILITIES*

14.25.010 Purpose. This section establishes the terms, criteria and procedures by which bed and breakfast and vacation rental uses may be permitted to ensure the safety and convenience of renters, owners, and neighboring property owners; protect the character of residential neighborhoods; and address potential negative effects such as excessive noise, overcrowding, illegal parking, and accumulation of refuse.

14.25.020 General Provisions.

- A. Vacation rental and bed and breakfast use of an existing dwelling unit is permitted in all residential and commercial zone districts subject to a business license endorsement (“endorsement”) pursuant to the provisions of this section;
- B. An endorsement for a vacation rental or bed and breakfast use is specific to the owner of a dwelling unit. When the holder of an endorsement sells or transfers the real property, the new owner shall obtain an endorsement before using the dwelling unit as a vacation rental or bed and breakfast facility. However, if a vacation rental or bed and breakfast use was in existence on such real property as of the effective date of 14.25.020(D), that subsection shall apply to the transferee as well;
- C. Vacation rental or bed and breakfast endorsements shall remain in effect so long as a valid business license is maintained for the rental use and the property is not sold or transferred;
- D. Each vacation rental and bed and breakfast use in existence as of the effective date of this section shall be subject to the provisions of this section.
 - 1. A business license endorsement shall be applied for within one hundred twenty (120) days of the effective date of the ordinance enacting this section. In the event an owner previously established a vacation rental or bed and breakfast facility use in accordance with applicable City of Newport land use codes, the city shall permit the existing land use to continue without requiring compliance with standards listed in 14.25.050 relating to maximum overnight occupancy, parking, landscaping, and shared access. The exemption to standards in 14.25.050 listed herein shall not apply to vacation rentals operated not more than ten times in a calendar year.
 - 2. A prior land use approval shall be voided and the

standards of 14.25.050 complied with if:

- a. An owner fails to apply for an endorsement within one hundred twenty (120) days of the effective date of the ordinance; or
 - b. a business license lapses for at least 12 consecutive months.
3. The provisions of 14.25.020 govern, notwithstanding 14.32.001 governing Nonconforming Uses, Structures, and Lots;
- E. If one or more of the standards under 14.25.050 cannot be met, an owner may seek approval of a vacation rental or bed and breakfast use as a Conditional Use, pursuant to 14.33.001. A Conditional Use Permit may allow relief from one or more of the endorsement standards of 14.25.050, but does not excuse the general endorsement requirements of 14.25.001.

14.25.030 Approval Authority.

- A. Upon receipt of an application for a vacation rental or bed and breakfast endorsement, the Community Development Director, or designee shall determine if the request satisfies the standards of 14.25.050. If the request satisfies the standards, then the Director shall issue the endorsement and provide notice per 14.25.070. Such action is ministerial and, as a non-discretionary act, is not subject to appeal. The endorsement is effective upon satisfaction of the inspection requirements of 14.25.060.
- B. In the event that the Community Development Director or designee determines that an application does not meet one or more of the standards of 14.25.050, an endorsement shall not be issued.
- C. A Conditional Use Permit application for a vacation rental or bed and breakfast use shall be submitted to the Community Development Director, or designee, and shall be reviewed by the Planning Commission via a Type III decision making process, consistent with 14.43.001, Procedural Requirements.
- D. An approved Conditional Use Permit that grants relief from, or provides alternative requirements to, one or more of the standards of 14.25.050 shall satisfy the standards of 14.25.050 and permit the Director to issue the endorsement.

14.25.040 Application Submittal Requirements. An application for a vacation rental or bed and breakfast endorsement shall be submitted on a form provided by the Community Development Department, and shall include the following:

- A. Site plan, drawn to scale, showing the dimensions, property lines, existing buildings, landscaped area, and off-street parking locations;
- B. Lincoln County Assessor's map showing the subject property and notification area; and
- C. Names and addresses of property owners within 200 feet of the subject property (or outline of property that is held in common), as shown in the records of the County Assessor. If the property is within a homeowners association, then contact information for the association shall also be provided.

14.25.050 Standards for Vacation Rental or bed and Breakfast Endorsement. An application for a vacation rental or bed and breakfast use shall comply with the following standards:

- A. Maximum Overnight Occupancy. Maximum overnight occupancy shall be two (2) persons per bedroom, plus two additional persons per property;
- B. Maximum Building Occupancy. The maximum number of individuals permitted within a vacation rental or bed and breakfast is subject to the limitations of the Uniform Fire Code or such other provisions of said code as may be applicable.
- C. Parking Standards. One (1) off-street parking space per bedroom that is dedicated to the vacation rental or bed and breakfast use. The location and design of parking spaces shall comply with 14.14.001, and designated spaces shall be available at all times to guests;
- D. Waste Management. Weekly solid waste disposal service shall be provided while the dwelling is occupied for vacation rental or bed and breakfast use;
 - 1. Owner or designee shall provide for regular garbage removal from the premises; and
 - 2. Trash receptacles shall be stored or screened out of plain view of the street.
- E. Landscaping. For vacation rental and bed and breakfast uses situated on individual lots or parcels in residential zones, at least 50% of the front yard and 40% of the total area shall be landscaped. No more than 50% of the front yard landscaping may be impervious surfaces, such as patios and decks. Driveway and parking areas shall not satisfy any portion of these landscaping requirements;
- F. Guest Register. Owner or designee shall maintain a guest and vehicle register for each tenancy. The register shall include the name, home address, and phone number of the primary tenant; the total number of occupants; vehicle license plate numbers of all vehicles used by the

tenants, and the date of the rental period. This information shall be provided to city emergency responders upon request;

- G. Contact Information. Owner or designee shall maintain on file with the City the name, telephone number, mailing address and email address (if available) of a contact person responsible for responding to questions or concerns regarding operation of the vacation rental or bed and breakfast. The contact person or designee must accept calls on a 24 hour basis and respond to inquiries from a tenant, complainant or the City within 24 hours. For the purpose of this subsection "respond" means an attempt to contact the person or persons that made the inquiry to address their questions or concerns;
- H. Emergency Information. Owner or designee shall provide information within the dwelling unit to inform and assist renters in the event of a natural disaster, power outage, or other emergency. Required information includes, but is not limited to:
 - 1. A tsunami evacuation map produced by Lincoln County Emergency Services, Oregon Department of Geology and Mineral Industries or other agency with similar authority.
 - 2. Phone numbers and addresses for emergency responders and utility providers.
 - 3. Other information as established by resolution of the City Council;
- I. Noise. Noise levels shall conform to the requirements of Chapter 8.15 of the Newport Municipal Code;
- J. Posting. A copy of the business license endorsement shall be located within the vacation rental or bed and breakfast and its location shall be posted inside the dwelling unit's primary entrance. In addition to the endorsement, such information shall include occupancy limits; a phone number and address for the designated contact; a diagram of the premises with parking locations; the maximum number of vehicles that can be parked on-site; instructions for trash pick-up, storage and recycling; emergency information; and the noise limitations of Section 8.15.015 of the Newport Municipal Code. This information shall be maintained and current at all times;
- K. Shared Access. Written consent is required from affected owners for applications that rely upon shared driveway, parking or beach access;
- L. Signs. Signs shall conform with applicable provisions of Title X of the Newport Municipal Code;
- M. Business License Required. A business license for the rental use shall be obtained pursuant to Chapter 4.05 of the Newport Municipal Code; and

N. Room Tax. Owner or designee shall adhere to the room tax requirements of Chapter 3.05 of the Newport Municipal Code.

14.25.060 Inspections.

- A. A dwelling unit proposed for a vacation rental or bed and breakfast use shall be inspected by the Building Official or designee to determine its conformance with the endorsement standards of subsection 14.25.050 and the following basic health and safety elements:
1. Bedrooms shall have an egress window or exterior door that is operable, with a minimum opening size of 5.7 sq. ft., and that is located not more than 44 inches above the finished floor;
 2. Interior and exterior hand railing shall be secure with a maximum width of four (4) inches between guard rails on open stairs. Hand and/or guard railing shall be installed for staircases with four (4) or more risers and on decks or porches that are more than 30 inches above grade;
 3. Windows within a 24 inch arc of doors shall be safety glazed;
 4. Wood frame decks shall be structurally sound. In cases where a deck supports a hot tub or other features of a similar size and weight, engineering analysis of the supports may be required;
 5. Electrical plug-ins and light switches shall have face plates;
 6. Electric breaker boxes shall have all circuits labeled, and empty breaker spaces must be plugged;
 7. GFCI (Ground Fault Circuit Interrupter) protected plug receptacles shall be provided for exterior, kitchen, and bathroom plugs;
 8. Functioning smoke detectors shall be installed in all bedrooms and in hallways between a potential fire source and sleeping areas.
 9. Functioning carbon monoxide alarms shall be installed if the unit (a) contains a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or (b) includes an attached garage with an opening that communicates directly with a living space. Such alarms shall be installed in compliance with State Fire Marshal Rules and any applicable requirements of the State Building Code, and there shall be available in the premises a written notice containing instructions for testing the alarm.
 10. Water heaters shall be strapped and secured in accordance with seismic protections standards, with a TEP (Temperature and Pressure Relief) line that is run to an approved location.

- B. If the Building Official or designee requires alterations, the identified deficiencies must be corrected as follows:
1. In circumstances where the unit is already subject to a rental agreement the Building Official or designee may allow continued use, provided corrective action is taken within 30 days, or an alternative timeline acceptable to the Building Official.
 2. For units undergoing an initial inspection prior to vacation rental or bed and breakfast use, corrective action shall be undertaken before the dwelling unit can be rented.
- C. Dwelling units with an endorsement for vacation rental or bed and breakfast use shall be subject to periodic re-inspection by the Building Official or designee at the city's discretion to ensure compliance with the provisions of this chapter. The timeframe for such inspections is subject to the city's discretion and available resources.

14.25.070 Notice Requirements. Upon issuance of an endorsement, the City shall provide notice to property owners within 200' of the subject property (or outline of property that is held in common) and a Homeowners Association, if one is established where the dwelling unit is located, advising that an endorsement for a vacation rental or bed and breakfast use has been issued. Such notice shall include the address of the dwelling unit that received the endorsement, a location where additional information can be obtained about the nature of the endorsement, and the name, phone number, mailing address, and email address (if available) of the owner or designated contact.

14.25.080 Complaints. The designated contact identified in subsection 14.25.050(G) above, is the initial point of contact for complaints regarding the use of the dwelling unit. That individual shall maintain a written log documenting the nature of all complaints related to endorsement standards, the dates they were received, and efforts taken to resolve issues that have been raised. The written log shall be provided to the City upon request.

14.25.090 Violations. Penalties, as specified in subsection 14.25.100, may be imposed for one or more of the following violations:

- A. Advertising; renting; using; or offering for use, occupancy or rent; a vacation rental or bed and breakfast facility where the owner does not hold a valid endorsement issued pursuant to this section;
- B. Advertising; renting; using; or offering for use, occupancy or rent; a vacation rental or bed and breakfast facility in a manner that does not comply with the endorsement requirements of subsection 14.25.050;
- C. Failure to comply with the endorsement standards and operational requirements of this section 14.25.001;



- D. Failure by the owner to pay the transient room tax required by Chapter 3.05 of the Newport Municipal Code; or
- E. Failure of the owner's designated contact to respond to tenant, citizen or City complaints or inquiries. "Failure to respond" occurs if City staff is unable to reach the designated contact after three attempts, using the information that the owner or designee has on file with the City.

14.25.100 Penalties. Penalties for a violation of subsection 14.25.090(A) shall be as established in Section 14.48.001. Where the owner possesses a valid endorsement or land use permit, the penalties for violations of 14.25.050(B-E) shall be as follows:

- A. For the first violation within a 12 month period, City shall issue a written warning to owner.
- B. For the second violation within a 12 month period, City shall suspend owner's vacation rental or bed and breakfast endorsement for 30 days.
- C. For the third violation within a 12 month period: 1) City shall revoke owner's vacation rental or bed and breakfast endorsement; and 2) where an endorsement includes a Conditional Use Permit, city shall also initiate the revocation procedure as outlined under 14.43.150.

(2-4-11 enacted by Ordinance No. 2032, adopted on April 2, 2012, effective July 1, 2012.)

14.26.001 MAINTENANCE OF PUBLIC ACCESS*

14.43.001 Maintenance of Public Access. The city shall review, under ORS 271.080 - 271.230, proposals for the vacation of public easements or rights-of-way that provide access to or along the Yaquina Estuary or the Pacific Ocean. The city shall review, under ORS 271.300 - 271.360, proposals for the sale, exchange, or transfer of public ownership that provide access to or along the Yaquina Estuary or the Pacific Ocean.

Existing public ownerships, rights-of-way, and similar public easements that provide access to or along the estuary or the ocean shall be retained or replaced if they are sold, exchanged, or transferred. Rights-of-way may be vacated to permit redevelopment of existing developed shoreland areas, provided public access across the affected site is retained.

14.27.001 HOME OCCUPATIONS*

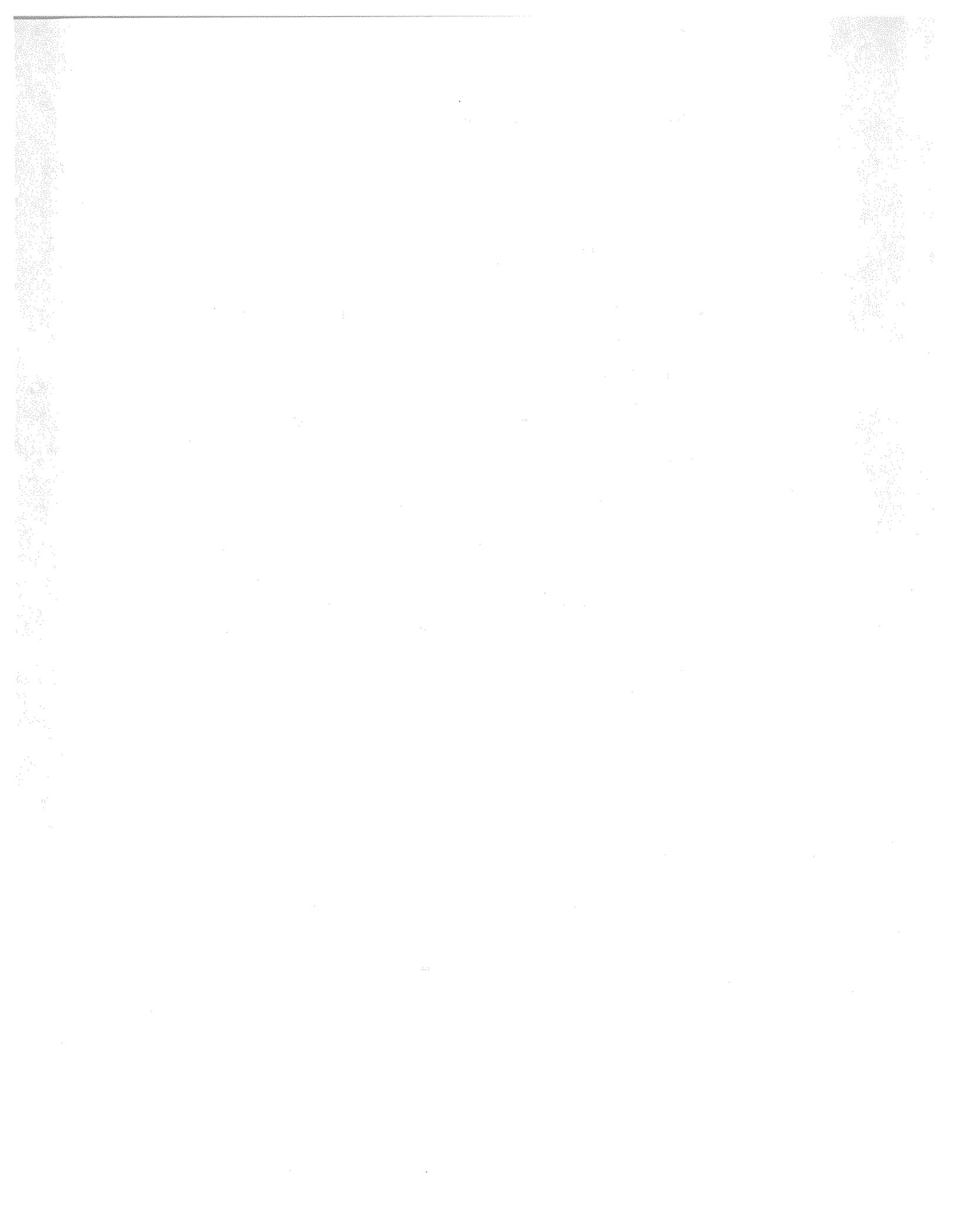
14.27.010 Purpose. The purpose of this section is to allow persons to conduct businesses out of their residences subject to the provisions of this section. It is the intent of this section to:

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

14.27.020 Permitted Uses. It is not the intent of this section to specifically list all the uses that may qualify as a home occupation. Whether or not a use may be permitted as a home occupation shall be based upon the standards contained in Section 14.23.030 of this ordinance.

14.27.030 Standards. Home occupations shall comply with the following:

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



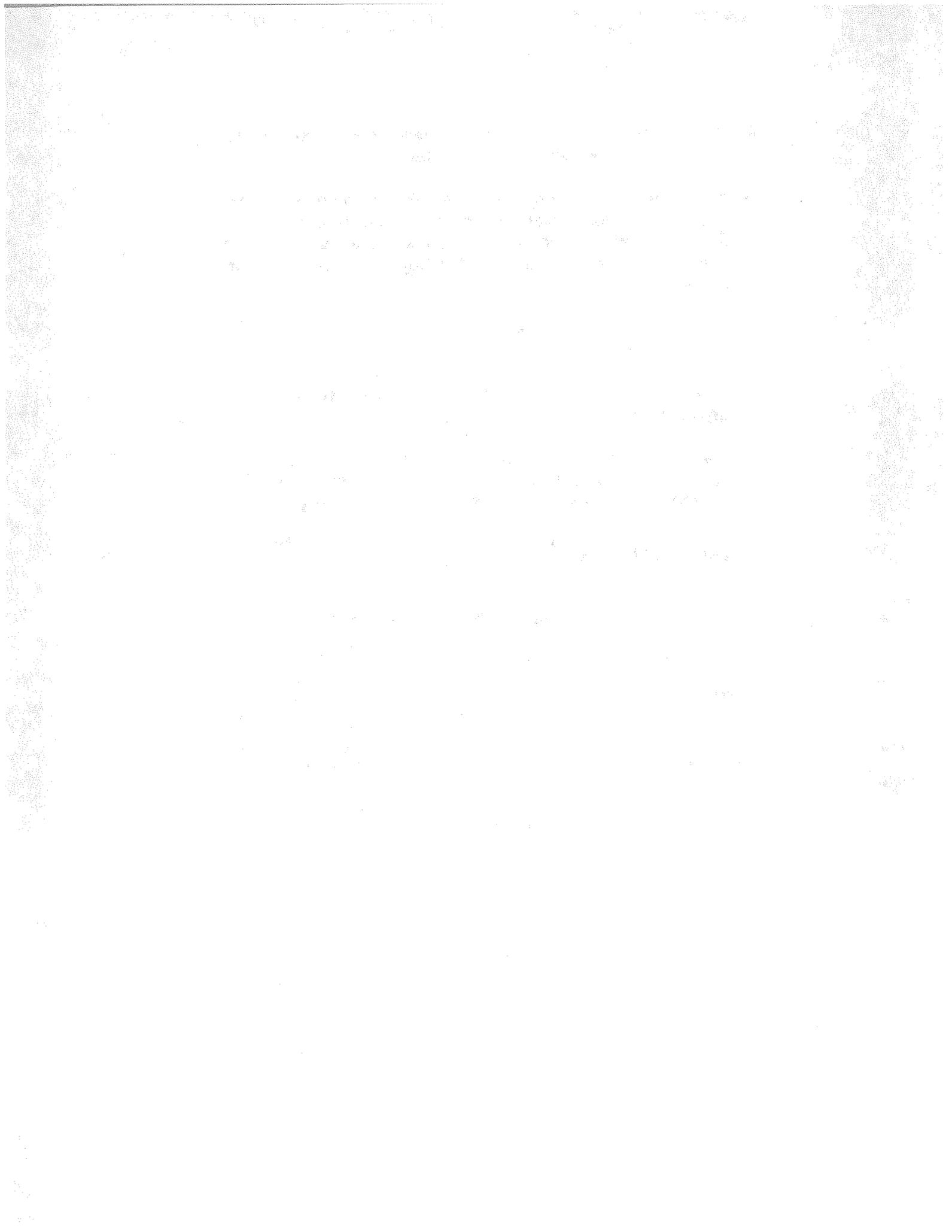
- F. Use or storage of hazardous substances is prohibited; except at the consumer commodity level.
- G. Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state, or federal standards, or that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

(This section added by Ordinance No. 1627 (1-21-92); and replaced in its entirety by Ordinance No. 2011 (2-18-11))*

14.27.040 Home Occupation Agreement. Any applicant for a home occupation must sign a Home Occupation Agreement. Such agreement shall be on a form provided by the city and shall, at a minimum, include the standards contained in Section 14.27.030. The application shall also provide a floor plan of all structures on the property where the home occupation is to be located. The site plan shall be drawn to scale and shall clearly delineate where the home occupation will be conducted.

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

14.27.060 Revocation. Standards listed in this section shall be construed as conditions of approval. Authorization of a home occupation may be revoked by the Planning Commission in the event conditions of approval are not met or the activities of the use, or use itself, are substantially different from what was represented by the applicant. The revocation process shall be as outlined in Section 14.43.001, Procedural Requirements.



14.32.001 IRON MOUNTAIN IMPACT AREA*

14.28.010 Purpose. The purpose of this section is to protect the operation of the Iron Mountain Quarry from adverse impacts of nearby development and to protect development within the area from adverse impacts from quarry operations, while recognizing that some impacts upon each use are unavoidable. It is also the intent of this section to implement the Comprehensive Plan as it relates to the Iron Mountain Rock Quarry.

14.28.020 Establishment of an Iron Mountain Impact Area Overlay Zone. An Iron Mountain Impact Area Overlay Zone is hereby established and applied to any area within the city limits that is within the impact area as defined in the city's Comprehensive Plan. All restrictions and criteria established by this section shall be complied with prior to the issuance of any building permit within the overlay zone. The Iron Mountain Impact Area shall be designated on the official Zoning Map with the symbol "(IMIA)" beside the symbol for the underlying zoning district.

14.32.030 Uses Permitted in an I-1/"Light Industrial" Zoning District.** The following uses are permitted subject to the criteria and standards of the underlying zone and the criteria and standards contained in Section 14.28.160 of this Code:

- A. Forest Services.
- B. Building Construction - General Contractors and Operative Builders.
- C. Construction Other Than Building Contractors - General Contractors.
- D. Construction - Special Trade Contractors.
- E. Manufacturing of Apparel and Other Finished Products Made From Fabrics and Similar Materials.
- F. Manufacturing of Furniture and Fixtures.
- G. Printing, Publishing, and Allied Industries.
- H. Local and Suburban Transit and Interurban Highway Passenger Transportation.
- I. Motor Freight Transportation and Warehousing.
- J. U.S. Postal Service.
- K. Transportation by Air.

- L. Transportation Services.
- M. Wholesale Trade--Durable Goods.
- N. Wholesale Trade--Nondurable Goods.
- O. Automotive Repair, Services, and Garages.
- P. Miscellaneous Repair Services.
- Q. Bowling Alleys and Billiard and Pool Establishments.

(Added by Ordinance No. 1691 (11-5-93).*

*** Added by Ordinance No. 1775 (9-2-97).)*

14.32.040 Conditional Uses Permitted in an I-1/"Light Industrial" Zoning District. * The following uses are permitted subject to the criteria and standards of the underlying zone, the criteria and standards contained in Section 14.28.160 of this Code, and the issuance of a conditional use permit in accordance with the provisions of Section 14.33.001, Conditional Uses, and Section 14.43.001, Procedural Requirements. **

- A. Manufacturing of Beverages.
- B. Miscellaneous Manufacturing Industries.
- C. Building Materials, Hardware, Garden Supplies, and Mobile Home Dealers.
- D. Eating and Drinking Places.
- E. Dance Halls, Studios, and Schools.
- F. Commercial Sports.
- G. Miscellaneous Amusement and Recreation Services.
- H. Tobacco Manufacturing.
- I. Manufacturing of Wood Containers.
- J. Miscellaneous Services.
- K. Leather and Leather Products.
- L. Manufacturing of Fabricated Metal Products (Except Machinery and Transportation Equipment).

- M. Manufacturing of Machinery (Except Electrical).
- N. Manufacturing of Electric and Electronic Machinery, Equipment, and Supplies.
- O. Manufacturing of Transportation Equipment.
- P. Pipe Lines (Except Natural Gas).
- Q. Electric, Gas, and Sanitary Services.

14.28.050 Uses Prohibited in an I-1/"Light Industrial" Zoning District.*** Other uses not listed in Section 14.32.030 and 14.32.040 of this Code are prohibited.

14.28.060 Uses Permitted in an R-4/"High Density Multi-Family Residential" Zoning District.**** The following uses are allowed subject to the criteria and standards of the underlying zone and the criteria and standards contained in Section 14.28.160 of this Code:

- A. Dwellings, Including Accessory Buildings Such As Meeting Rooms and Recreational Areas.
- B. Condominiums.
- C. Mobile Home Parks.
- D. Child Care Facilities.
- E. Uses Related to Federal or State Subsidized Low Income Housing Projects, Including, but not limited to, Head Start, Tenants Associations, and the like.

(* Added by Ordinance No. 1775 (9-2-97).

**Amended by Ordinance No. 1989 (1-1-10).

*** Added by Ordinance No. 1775 (9-2-97).

**** Amended by Ordinance No. 1775 (9-2-97).)

14.32.070 Uses Prohibited in an R-4/"High Density Multi-Family Residential" Zoning District.* The following uses are prohibited in the Iron Mountain Impact Area:

- A. Hospitals.
- B. Schools, Libraries, Colleges, Churches, Clubs, Lodge Halls, and Museums.
- C. Motels, Hotels, and Time-Share Projects.
- D. Bed and Breakfast Facilities.

- E. Boarding, Lodging, or Rooming Houses.
- F. Golf Courses.
- G. Recreational Vehicle Parks.
- H. Hostels.
- I. Any other use not listed in the permitted list contained in Section 14.24.070 of this Code.

(Amended by Ordinance No. 1775 (9-2-97).)*

14.28.080 Uses in the Impact Area that are zoned I-2 or I-3.**

*** Section Added by Ordinance No. 1878 (10-19-04)*

14.28.090 Uses Permitted Outright and Conditionally in an I-2^m Medium Industrial^m Zoning District. The following land use categories authorized by the I-2 zoning in Section 14.04.060 (Commercial and Industrial Uses) either as uses permitted outright or conditionally may be allowed within the impact area subject to the underlying zone requirements and any applicable standard of Section 14.28.160 (Iron Mountain Impact Area Development Requirements), excluding the noise standards for residential development provided in Section 14.28.160(D):

- A. Retail Sales and Service (sales-oriented, general, and bulk);
- B. Retail Sales and Service (repair-oriented);
- C. Vehicle Repair;
- D. Self-Service Storage;
- E. Parking Facility;
- F. Contractors and Industrial Service;
- G. Manufacturing and Production (light and heavy);
- H. Warehouse, Freight Movement, and Distribution;
- I. Wholesale Sales;
- J. Waste and Recycling Related;
- K. Basic Utilities and Roads;
- L. Utility, Road, and Transit Corridors;

M. Community Service (post offices only);

N. Mining;

O. Communication Facilities.

14.28.100 Uses Permitted in an I-2/"Medium Industrial" Zoning District with Conditions for the IMIA. The following land use categories authorized by the I-2 zoning in Section 14.28.090 (Commercial and Industrial Uses) either as uses permitted outright or conditionally may be allowed within the impact area subject to the underlying zone requirements and any applicable standard of Section 14.28.160 (Iron Mountain Impact Area Development Requirements), including the noise standards for residential development provided in Section 14.28.160(D):

A. Office;

B. Retail Sales and Service (Personal Services);

C. Retail Sales and Service (Entertainment);

D. Day Care Facility;

E. Educational Institutions (Trade/Vocational Only).

14.28.130 Uses Permitted in an I-3/"Heavy Industrial" Zoning District. The following land use categories authorized by the I-2 zoning in Section 14.04.060 (Commercial and Industrial Uses) either as uses permitted outright or conditionally may be allowed within the impact area subject to the underlying zone requirements and any applicable standard of Section 14.28.160 (Iron Mountain Impact Area Development Requirements), excluding the noise standards for residential development provided in Section 14.28.160(D):

A. Retail Sales and Service (sales-oriented, general, and bulk);

B. Parking Facility;

C. Contractors and Industrial Service;

D. Manufacturing and Production (light and heavy);

E. Warehouse, Freight Movement, and Distribution;

F. Wholesale Sales;

G. Waste and Recycling Related;



- H. Basic Utilities and Roads;
- I. Utility, Road, and Transit Corridors;
- J. Mining;
- K. Communication Facilities.

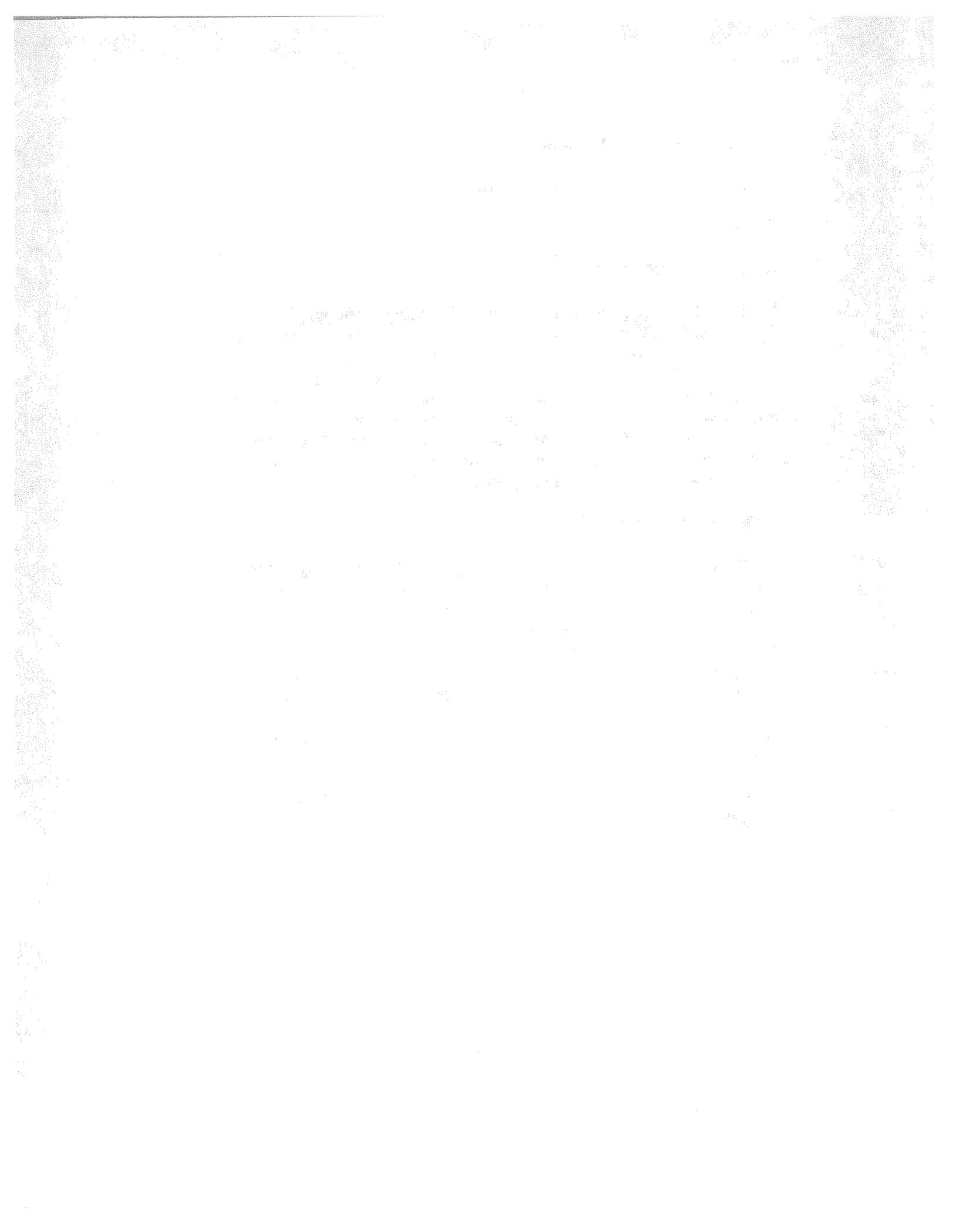
14.28.140 Uses Permitted in an I-3/"Heavy Industrial" Zoning District with Conditions in the IMIA. The following land use categories authorized by the I-3 zoning in Section 14.04.060 (Commercial and Industrial Uses) either as uses permitted outright or conditionally may be allowed within the impact area subject to the underlying zone requirements and any applicable standard of Section 14.28.160 (Iron Mountain Impact Area Development Requirements), including the noise standards for residential development provided in Section 14.28.160(D):

- A. Educational Institutions (trade/vocational only).

14.28.150 Change of Zone or Use in the Iron Mountain Impact Area. In order to approve any change of zone or use in the Iron Mountain Impact Area, the city shall amend the Comprehensive Plan to incorporate a revised analysis of the economic, social, environmental, and energy (ESEE) consequences on the Iron Mountain Quarry. A change of zone may require that the permitted use list in Section 14.32.070 be amended. Uses added to the permitted use list must be compatible with the intent and purpose of the Iron Mountain Impact Area Overlay Zone and the Comprehensive Plan.

14.28.160 Iron Mountain Impact Area Development Requirements. In addition to the criteria established in the underlying zone, all development within the Iron Mountain Impact Area shall comply with the following requirements:

- A. The minimum setback for dwelling structures shall be 50 feet from the property line between the Iron Mountain Quarry and its haul road and the structure, and 25 feet from the property line between the Oregon Department of Transportation (ODOT) stockpile site (Tax Lot 800) and the structure. Setbacks from other property lines shall be as required in the underlying zone.
- B. All residential development shall install fences or walls or similar site-obscuring structures, including vegetative barriers such as hedgerows and the like, which shall be no less than six (6) feet in height, between living areas and the Iron Mountain Quarry, haul road, and stockpile site.

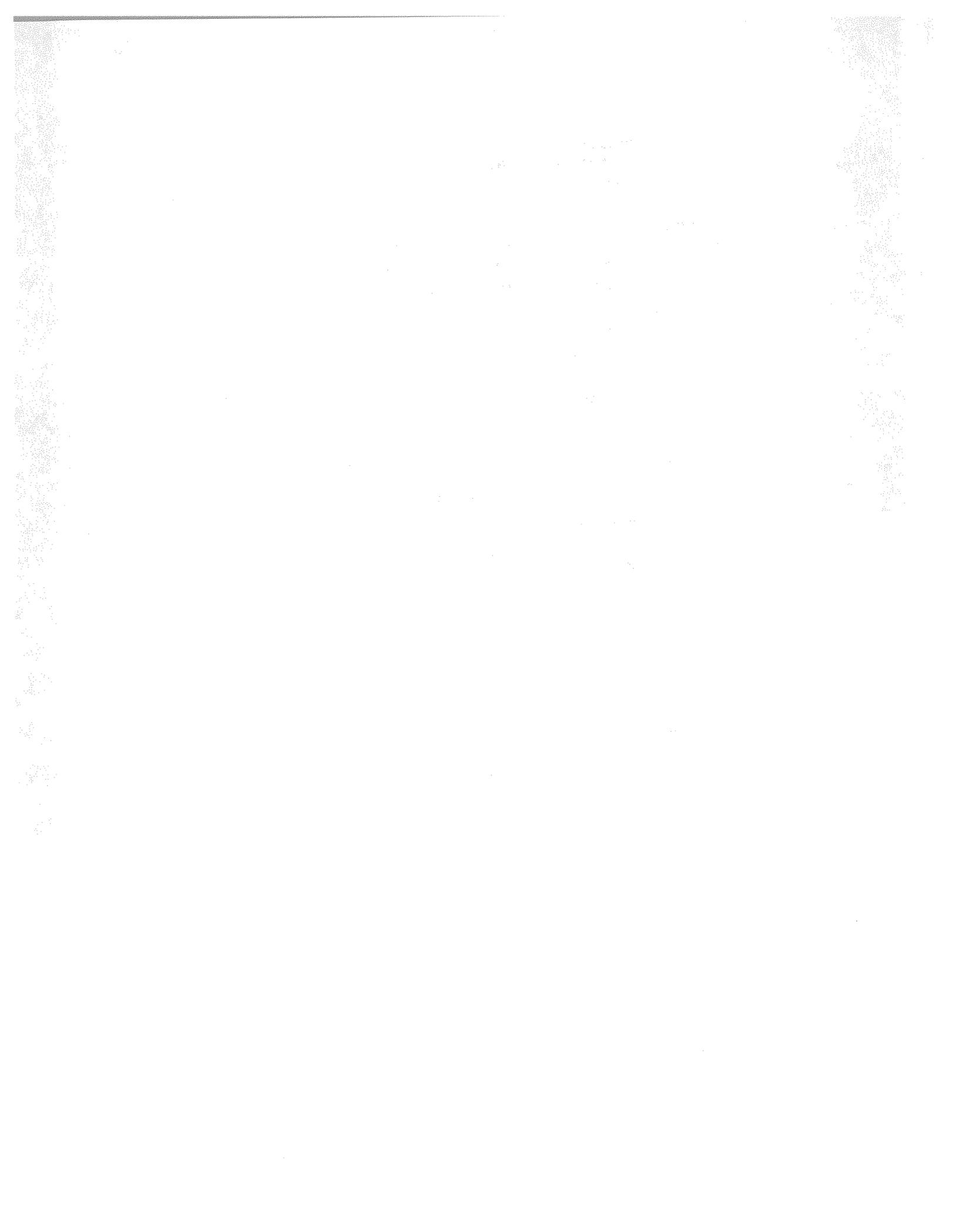


C. To the extent it is practicable, all developments shall retain existing vegetation within required setback areas between living areas and the Iron Mountain Quarry, haul road, and stockpile site to serve as visual screening, except for vegetation removed to accommodate required fencing or walls. Nothing set forth herein shall be construed so as to prevent a development from creating lawn areas, playground areas, or similar common areas outside the setback area which are designed to serve the development.

D. Noise Standards.

1. Except as provided in subsection (D)(4) of this section, residential developments shall be designed so that lawful mining, crushing, and processing activities at the Iron Mountain Quarry will not result in anticipated sound levels that violate applicable noise control regulations adopted by the Oregon Department of Environmental Quality (OAR Chapter 340, Division 35).
2. "Anticipated sound levels" refers to sound levels which would be produced by typical quarry operations conducted in compliance with the following:
 - a. The Department of Geology and Mineral Industries (DOGAMI) mining permit and application for the quarry;
 - b. ODOT's mining plans set forth in the ESEE analysis adopted as part of the Comprehensive Plan;
 - c. Any ordinance or regulations adopted by Lincoln County;
 - d. Refraining from the use of explosives or rock drills before 7:00 A.M. and after 7:00 P.M.; and
 - e. Utilizing portable noise barriers to attenuate noise from rock drills and compressors, except where topographical features provide equal or better attenuation.
3. In view of the sporadic operation of the quarry, anticipated sound levels may be determined utilizing acoustical modeling techniques based on noise studies of typical aggregate plants.
4. The requirements set forth in subsection (D)(1) of this section shall not apply in the event the provisions of 24 CFR 51 subpart B or successor regulations apply to the development. In that case, the development shall provide evidence of compliance with such provisions which shall be deemed satisfactory compliance with this section.

- E. The owner/developer of land in the Iron Mountain Impact Area shall record an easement in favor of the owner and operators of the Iron Mountain Quarry. The easement shall:
1. Identify the Iron Mountain Quarry, haul road, and stockpile site as lawful, preexisting uses of adjacent property described as Tax Lots 600, 700, and 800, Lincoln County Assessor's Map 10-11-20, and state that the quarry is identified as a protected aggregate resource site in the Lincoln County Comprehensive Plan.
 2. Identify the Iron Mountain Quarry as an "existing industrial or commercial noise source" as defined by Oregon Department of Environmental Quality administrative rules.
 3. Identify that mining and processing of rock and aggregate products for road construction projects occurs on adjacent property. Activities involving the mining and processing of rock and aggregate products includes, but is not limited to, drilling, blasting, excavation, crushing, sorting, and transportation of these products off of the site on the preexisting haul road, and may include manufacture and transportation of asphaltic and Portland cement concrete.
 4. State that the owner shall include notice in any rental or lease agreement to advise tenants and occupants of the existence of the quarry and the possibility of residents being disturbed by lawful mining, processing, and transportation activities at the Iron Mountain Quarry.
 5. State that residents, tenants, and occupants agree that operations of the quarry are regulated by Lincoln County and agencies of the State of Oregon.
 6. State that owners, tenants, and occupants agree not to object to or contest the terms of a permit issued by regulatory authorities for lawful operation at the Iron Mountain Quarry. Owners, tenants, and occupants agree not to initiate or seek any change of land use designation or permit modification which would limit or curtail lawful operation of the quarry.
 7. State that the owner of the property grants to the owners and operators of the Iron Mountain quarry, their successors and assigns, an easement to create noise across the owner's property at levels not in excess of the noise standards referenced in this section.
 8. State that owners, tenants, and occupants of the property



agree to hold the owner and operators of the Iron Mountain Quarry, their successors and assigns, harmless from any claims, demands, and causes of action, of whatever nature, whether legal, equitable, or administrative, arising out of noise produced by the owner or operators of the Iron Mountain Quarry within the standards referenced in this section.

9. State that the owner releases the owners and operators of the Iron Mountain Quarry, their successors and assigns, from all claims of whatever nature, whether legal, equitable, or administrative, present or future, relating to noise produced by the owner or operators of the Iron Mountain Quarry within the standards referenced in this section.
10. State that the easement shall run with the land and bind the parties and their successors, and the tenants and occupants of the property.
11. State that the easement shall terminate when mining quarry is completed and the quarry has been reclaimed in accordance with state laws regulating reclamation.

14.28.170 Iron Mountain Impact Area Review Procedure.

Permitted uses listed in Section 14.32.070 shall be reviewed as follows:

- A. Applicants for permitted uses shall submit a site plan conforming to the requirements of Section 14.28.160 and other applicable sections of this Ordinance.
- B. Applicants for permitted uses shall submit a report prepared by a registered engineer indicating that the development is designed and will be built to meet the standards of Section 14.28.160.

14.29.001 NON-CONFORMING USES IN R-1 ZONING DISTRICTS*

14.30.001 DESIGN REVIEW STANDARDS

14.30.010 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.

The Newport Comprehensive Plan identifies six potential urban design districts within the Newport Peninsula including the City Center District (and Highway 101 corridor), Waterfront District, Nye Beach District, Upland Residential District, East Olive District, and the Oceanfront Lodging/Residential District. Additionally, neighborhood plans may be adopted for other areas of Newport that include as an objective the implementation of design review to maintain and/or provide a flexible approach to development by offering two methods of design review from which an applicant can choose. One method of design review is under clear and objective design standards and procedures to allow development that is consistent with the standards to occur with certainty in a timely and cost effective manner. A second alternative method of design review is review under design guidelines, which area a more flexible process for proposals that are creative/innovative and meet the identified guidelines of the applicable design review district.

It is further the purpose of these standards to:

- A. Preserve the beautiful natural setting and the orientation of development and public improvements in order to strengthen their relationship to that setting.
- B. 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.
- C. Improve the vehicular and pedestrian networks in order to improve safety, efficiency, continuity, and relationships connecting Newport neighborhoods.
- D. Strengthen Newport's economic vitality by improving its desirability through improved appearance, function, and efficiency.

- E. Improve the built environment in order to strengthen the visual appearance and attractiveness of developed areas.
- F. Implement the goals and objectives of the adopted neighborhood plans.

14.30.020 Definitions. The following words and phrases for the purposes of the design review ordinance shall have the following meanings:

- A. "Community Development Director shall mean the Community Development Director/Planning Director or designate.
- B. "Design guidelines" shall mean the mandatory general design criteria with which a project is required to be in compliance. The design guidelines are applicable for applications that do not meet the design standards.
- C. "Design review" shall mean the process of applying design guidelines and/or design standards as applicable to a project.
- D. "Design standards" shall mean the mandatory specific design criteria with which a project must demonstrate compliance. If the project does not meet the design standards, then the project is reviewed under the design guidelines.
- E. "Footprint" shall mean the total square footage of the area within the perimeter of the building as measured around the foundation of a building.
- F. "Gross floor area" shall mean the total square footage of floor area within the exterior walls of a building excluding crawl spaces and unenclosed porches/decks.
- G. "Substantial reconstruction" shall mean the value of the exterior construction work requiring a building permit that is 25% or more of the real market value of an existing commercial structure and 35% or more of the real market value of an existing residential structure based on the value on the most current rolls of the Lincoln County Tax Assessor. Value of the work to be done shall be the valuation of the work as determined for the building permit on which the cost of the permit is based. In the case where one or more additional building permits involving exterior work are applied for within one year of the date of issuance of the first building permit for exterior

work, the value of the exterior construction work on the projects shall be counted as one project for the purposes of determining the percentage of exterior construction work value.

14.30.030 Council Review of Design Review Districts and Implementing Regulations

- A. Within 10 years of the date of the adoption of an ordinance establishing a design review district and the implementing regulations, the City Council shall consider reviewing the proposed design review district and the implementing regulations by soliciting public comment on the design review district and the implementing regulations. The Council shall provide public notice that the Council is considering reviewing the proposed design review district and implementing regulations and shall accept public comment on whether or not to review the proposed design review district and the implementing regulations. Following the acceptance of public comment on reviewing the proposed design review district and implementing regulations, the Council shall decide whether or not to review the proposed design review district and implementing regulations. If the Council decides to review the proposed design review district and implementing regulations, the Council may proceed in a manner provided by the Comprehensive Plan, Zoning Ordinance, and/or state law for review of the design review district and implementing regulations. The ability to amend an ordinance relating to design review, without the above process, as provided by the Comprehensive Plan, Zoning Ordinance, and/or state law is not precluded by this section.
- B. The following are the 10 year review dates for the established design review district:
 - 1. Historic Nye Beach Design Review District. For the Historic Nye Beach Design Review District, the process in Section 14.30.030(A) shall be initiated by the City Council by December 1, 2013.

14.30.040 Design Review Districts: Overlay Zones Established. The following:

- A. Historic Nye Beach Design Review District. The Historic Nye Beach Design Review District Overlay Zone shall be indicated on the Zoning Map of the City of Newport with the letters HNBO and is the area within the area described as follows:

Starting at the intersection of SW Hurbert St. and SW 2nd St.; thence west along SW 2nd St. to SW Dolphin St.; thence north along SW Dolphin St. to W Olive St.; thence west along W Olive St. to SW Elizabeth St.; thence south along SW Elizabeth St. to SW Surf St.; thence west along SW Surf St. to the Pacific Ocean; thence north along the Pacific Ocean to NW 12th St.; thence east on NW 12th St. to NW Spring St.; thence south along NW Spring St. to NW 10th St.; thence east along NW 10th St. to NW Hurbert St.; thence south along NW Hurbert St. and SW Hurbert St. to SW 2nd St. and the point of beginning.

The boundary of the area described shall be adjusted to also include Lot 6 of Block 19, OCEANVIEW.*

*(*Sentence added by Ordinance No. 1887 (11-7-05).)*

14.30.050 Adoption of Design Review: Guidelines and Standards. The document entitled "Newport Design Review: Guidelines and Standards" dated November 10, 2003, is hereby adopted by reference and made a part hereof. The guidelines and standards contained therein shall be the guidelines and standards applicable to the Historic Nye Beach Design Review District.

14.30.060 Special Zoning Standards in Design Review Districts. All zoning standards and requirements applicable under Ordinance No. 1308 (as amended) in the subject zoning district shall apply, except that the following additional zoning standards are applicable for the design review district as applicable in the underlying zoning designation and shall be modified for each district as specified.

A. Historic Nye Beach Design Review District:

1. No drive through windows are allowed.
2. Any building with any exterior dimension of 100 feet or more shall be required to obtain a Conditional Use permit as outlined in Section 14.33.001, Conditional Uses, and using a Type III Land Use Action decision process consistent with Section 14.43.001, Procedural Requirements.* If a structure with an exterior dimension of 100 feet or more existing on the date of passage of this ordinance is destroyed or damaged by any cause, a conditional use permit under this subsection shall not be required for the replacement or rebuilding of the structure provided the replacement or rebuilding is within the footprint of the

building prior to destruction or damage and the replacement or rebuilding does not exceed the exterior dimensions, including height, of the building as it existed prior to the destruction or damage. In addition to the criteria contained in Section 14.30.015(A), the proposed project shall be consistent with the design guidelines or standards established for the Historic Nye Beach Design Review District.

3. Commercial buildings with frontage on NW and SW Coast Street, W Olive Street, NW and SW Cliff Street, NW Beach Drive, and NW Third Street shall be set back from the property line fronting the street no more than 5 feet unless the development provides for a pedestrian oriented amenity (such as a courtyard, patio, or café with outdoor seating), compliance with the setback is precluded by topography or by easement, or a larger setback is authorized by the Planning Commission through the design review process.
4. All required yards and setbacks established in Section 14.11.001 (Required Yards and Setbacks) and Section 14.18.001 (Screening and Buffering between Residential and Non-Residential Zones) shall be reduced by 50%.
5. Residences associated with a bed and breakfast may be on any floor.
6. All applicants shall sign a waiver or remonstrance for future street and/or sidewalk improvement districts if said improvement is part of a plan adopted by the City Council.
7. For Tourist-Commercial (C-2) zoned property with frontage on NW and SW Coast Streets, W Olive Street, NW and SW Cliff Streets, NW Beach Drive, and NW Third Street, a single-family residence is allowed as a use permitted outright if located on a floor other than the street grade floor.

An existing single-family residence as of the date of passage of this ordinance with frontage on the above-named streets and located on the street grade floor is allowed as a use permitted outright for the footprint of the structure existing at the date of passage of this ordinance. For all C-2 zoned property within the District, up to 5 multiple family dwelling units are allowed as a use permitted outright if located on a floor other than the street grade floor. As noted in Subsection

(5) above, a residence associated with a bed and breakfast may be on any floor. This section modified 14.23.020(B) for properties within the Historic Nye Beach Design Review District.

*(*Amended by Ordinance No. 1989 (1-1-10).)*

- 1.* Additional residential use, including at the street grade, is permitted outright for C-2 property located south of NW 2nd Court and north of NW 6th Street that front NW and SW Coast Street, W. Olive Street, NW and/or SW Cliff Street, if the residential use complies with the following additional requirements:
 - a. The maximum density per residential unit is 1,250 square feet per unit.
 - b. The maximum building height is 35 feet.
 - c. The maximum lot coverage in structures is 64%. If the proposed residential use provides at least 1 actual off-street parking space for each residential unit in a below-grade parking structure (for the purposes of this section below-grade is defined to mean that 50% or more of the perimeter of the building is below-grade) located directly below the residential portion of the structure, the maximum lot coverage allowed is 90%.
 - d. Residential structures built on C-2 property located south of NW 2nd Court and north of NW 6th Street that front NW and SW Coast Street, W Olive Street, NW and/or SW Cliff Street, shall be required to meet the Design Standards and Design Guidelines for Single-Family, Two-Family, or Multiple-Family dwellings as applicable and contained in the Historical Nye Beach Overlay.
 - e. The residential use provides at minimum 1 actual off-street parking space for each residential unit.
 - f. At least one residential building per lot is set back from the property line abutting the street no more than 5 feet unless compliance with the setback is precluded by topography or easement or a larger setback is authorized by the Planning Commission by variance or through the design review process.
2. For C-2 zoned property with frontage on NW and SW Coast Street, W Olive Street, NW and SW Cliff Street,

NW Beach Drive and/or NW Third Street, single-family residential use of a building that was either constructed for single-family residential use or has been previously used for a single-family residential use is permitted throughout the entire portion of the building.

*(*Subsection added by Ordinance No. 1946 (1-22-08).*

***Subsection added by Ordinance No. 1946 (1-22-08).)*

3. The following adjustments to the off-street parking requirements of Section 14.14.001 (Parking, Loading, and Access Requirements) are provided for uses within the District:
 - a. Commercial uses within the area bounded by SW 2nd Street, NW 6th Street, NW and SW High Streets, and the Pacific Ocean are exempt from the requirement to provide off-street parking if the commercial use participates in a Council-approved parking district.
 - b. Commercial uses outside of the area identified in Subsection (A) above shall have the first 1,000 square feet of gross floor area exempted from the off-street parking calculation.
 - c. All uses within the District shall be allowed an on-street parking credit that shall reduce the required number of off-street parking spaces by one off-street parking space for everyone on-street parking space abutting the property subject to the following limitations:
 - i. Each on-street parking space must be in compliance with the City of Newport standards for on-street parking spaces.
 - ii. Each on-street parking space to be credited must be completely abutting the subject property. Only whole spaces qualify for the on-street parking credit.
 - iii. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street parking spaces are allowed except as authorized by the City of Newport.

9. The following adjustments to Section 14.16.010 (Minimum Size) and Section 14.12.005 (Table "A") are allowed within the District.
 - a. The minimum lot area within both the R-4 and C-2 zones shall be 3,000 square feet.
 - b. The minimum lot width for the R-4 zone shall be 30 feet.

10. The following adjustments to Section 14.03.050 (Residential Uses) and Section 14.03.060 (Commercial and Industrial Uses) are applicable within the District:
 - a. For Section 14.03.050 (Residential Uses), uses permitted outright in the C-2 zone including those uses identified in Subsection (B) below and that are not specified as a use permitted outright or conditionally in the R-4 matrix, are allowed in the R-4 zone subject to the issuance of a conditional use permit in accordance with the provisions of Section 14.33.001, Conditional Uses, and Section 14.43.001, Procedural Requirements, and subject to the limitation that the use not exceed a total of 1,000 square feet of gross floor area.* This provision does not preclude an application for a use as a home occupation under Section 14.27.001 (Home Occupations).

*(*Amended by Ordinance No. 1989 (1-1-10).)*

- b.* For Section 14.03.060 (Commercial and Industrial Uses), uses permitted outright in the C-2 zone are also permitted outright in the District provided the gross floor area is less than or equal to 2,000 square feet. Uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Section 14.33.001, Conditional Uses, and Section 14.43.001, Procedural Requirements.

11. Recreational vehicle parks are not permitted within the C-2/"Tourist Commercial" and "P-1/"Public Structures" zone designations within the District.**

*(*Subsection amended by Ordinance No. 2022 (10-20-11).*

***Added by Ordinance No. 1886 (7-18-05).)*

14.30.070 When Compliance with Design Review is Required. Unless exempted by Section 14.30.040 (Design Review Districts), or the proposed development activity is subject to the provisions of Section 14.23.001 (Historic Buildings and Sites), the following development activities in an established design review district are required to obtain a design review permit under the design standards in an identified design review district or, in the alternative, to apply for a design review permit and to obtain approval under the design guidelines for that design review district:

- A. The new construction, substantial reconstruction, or relocation from outside the design review district of a single-family residence.
- B. The new construction, substantial reconstruction, or relocation from outside the design review district of a principle commercial or public/institutional building.
- C. The new construction, substantial reconstruction, or relocation from outside the design review district of an accessory structure that:
 - 1. Contains more than 300 square feet of gross floor area, or
 - 2. Contains between 200 square feet and 300 square feet of gross floor area and is located within 20 feet of a public right-of-way.
- D. The addition of more than 50% of gross floor area to an existing building or accessory structure or where the addition increases the footprint of the existing building by more than 1000 square feet. The 50% of gross floor area may come from either adding to the structure or from elevating the structure. If the sum of the gross floor area of the original accessory structure and the gross floor area of the proposed addition to the accessory structure would not require design review, then design review is not required.

14.30.080 Review Authority, Approval, Appeal and Modification.

- A. Generally, the following are the initial review authorities for each type of application:
 - 1. Planning Commission. For any project that requires design review under the design guidelines or in conjunction with a conditional use, a variance, or any

other type of land use permit for which a Type III Land Use Action decision process is required, the Planning Commission shall be the review authority for both the design review permit and the land use permit if the applicant chooses to consolidate the applications into one request as allowed under Section 14.43.001, Procedural Requirements.*

2. Community Development Director. For any project that meets the design standards specified in the adopted design review criteria for a design review district, the Community Development Director is authorized to approve the application.
- B. Approval Authority. For design review applications under design guidelines, the approving authority has the authority to approve, require modification(s) to the design and, if the findings justify, deny an application for design review based on the applicable design guidelines. Required modification(s) to the design shall only be specified if necessary to avoid a finding that the application does not meet the applicable design guidelines and shall be limited to only those modification(s) necessary to avoid a denial of the permit application.
- C. Appeals. Appeals from a decision of the Community Development Director are made to the Planning Commission. Appeals from a decision of the Planning Commission are made to the City Council. Appeals are conducted in accordance with the zoning ordinance section on appeals found in Section 14.43.001, Procedural Requirements.** The appeal fees and appeal notice forms shall be those normally used for a land use appeal.
- D. Modification of approved design. A modification of an approved design may be requested of the approving authority for any reason by an applicant. Applications for a modification shall be submitted and processed in the same manner as the original application.
1. If the requested modification is from an approval issued under design standards, the modification request shall be approved by the Community Development Director if the modification also meets the design standards.
 2. If the modification does not meet the design standards or if the modification is from an approval issued under

the design guidelines, the modification shall be processed under the design review process for compliance with the applicable design guidelines. The Commission's authority is limited to a determination of whether or not the proposed modification is consistent with the applicable design review guidelines.

3. If the modification is of a design element specifically required as a condition of approval of a Planning Commission decision, the Planning Commission shall be the review authority. The Commission's review authority is limited to a determination of whether or not the proposed modification is consistent with the design guidelines and the reason for imposing the condition of approval. The request for modification shall be processed under the same procedure used for the initial application.

*(*Amended by Ordinance No. 1989 (1-1-10).*

***Amended by Ordinance No. 1989 (1-1-10).)*

14.30.090 Submittal Requirements.

- A. The applicant for design review under the design standards shall follow the same procedure for a building permit application and shall submit information on the site plan and building plans to demonstrate compliance with the applicable criteria by clearly identifying the elements on the site plan and building plans as those elements provided to meet the design standards. Additionally, a written checklist of the design standards identifying the design elements used to comply with the design standards shall also be submitted.
- B. The applicant for design review under the design guidelines shall submit a completed application and plans showing the following:
 1. A completed and signed design review application including fee (if required) and a list of all names and addresses of property owners within 100 feet of the property as determined from the current rolls of the Lincoln County Assessor's Office.
 2. A site plan, drawn to scale with:
 - a. Project name
 - b. Vicinity map

- c. Scale (the scale shall be at least one inch equals fifty feet or larger)
 - d. North arrow
 - e. Date
 - f. Street names and locations of all existing and proposed streets within or on the boundary of the proposed development as applicable
 - g. Location of all parking areas and all parking spaces, ingress and egress to the site and on-site circulation.
 - h. A landscape plan showing the location, type and variety, size and any other pertinent features of the proposed landscaping and plantings for all multiple-family (more than 2 units), commercial, and public/institutional development
 - i. Location and general use of all buildings
 - j. Zoning
 - k. Dimensions of lots, structures, and other features
 - l. Any other feature required to be included on a site plan as identified by the requirements of a design review district
3. Exterior elevations of all buildings on the site as they will appear after development. Such plans shall indicate the material, texture, shape, and other design features of the building(s), including all mechanical devices.
 4. A written set of proposed findings that explain how the project complies with the applicable design guidelines.

14.30.100 Procedural Requirements.

- A. Procedural requirements for the Planning Commission as the approving authority on consolidated applications shall be the same as for the land use application.
- B. Procedural requirements for design review applications only (not consolidated with another land use application):

1. Upon the submittal of an application, the Community Development Director shall review the application and determine within five working days whether or not the application is complete. If all required submittals accompany the application, the application shall be accepted. If all required submittals do not accompany the application, the applicant shall be notified within 30 days of the incomplete application with a written explanation of what needs to be submitted in order to make it complete. The application shall be deemed complete upon receipt by the Community Development Department of all of the missing information, some of the missing information and written notice from the applicant that no other information will be provided, or written notice from the applicant that none of the missing information will be provided.
2. Upon acceptance of a complete application, the Community Development Director shall mail notice to the property owners within 100 feet of the subject property and any neighborhood or community association recognized by the City Council and whose boundaries include the site. Notice shall be required to be sent only to the chair of the association or any other person designated by the association. Notice does not have to be sent to each and every member of the association.
3. Persons subject to notice shall be given 14 days from the date the notices are mailed to make comment. Comments must be in writing and must be received by the Community Development Director by 5:00 P.M. on the 14th day. If the 14th day falls on a weekend or legal holiday, the deadline for comments shall be extended to 5:00 P.M. on the next business day.
4. After the comment period, the application shall be placed on the agenda for the Commission. The Commission shall review the application and all comments received during the comment period. The review process shall follow a Type III Land Use Action decision process consistent with Section 14.43.001, Procedural Requirements.* If the Commission finds that the application complies with the criteria, then the application shall be approved. If the Commission finds that the application does not comply with the criteria, then they shall state where the application fails to meet the criteria and may attach conditions of approval necessary to obtain compliance with the

criteria to the application so that the application can be approved. If the application cannot be made to comply, the Commission may deny the request. All decisions shall be in writing and shall have findings explaining the decision. Applications may be resubmitted at any time after a denial.

5. After a decision, the applicant and any person or association who made comment shall be notified of the decision. The notification shall contain an explanation of appeal rights.

14.30.110 Time Limit on Design Review Permit.

- A. A design review permit shall be void after 18 months from the date the permit is final unless substantial construction has taken place. Substantial construction shall mean at least 25% of the value of the building or the work permitted (or if multiple buildings are proposed, then 25% of the value of the first building) has been completed. If the permit is issued in conjunction with another land use permit through a consolidated application procedure or in conjunction with a building permit, the time limit on the design review permit shall be the same as the time limit on the accompanying permit.
- B. The time limit on a design review permit shall be extended only once for a period of 12 additional months if a request for an extension is submitted by the permit holder or authorized agent in writing to the Community Development Department of the City of Newport prior to the permit expiration date. The Community Development Director shall be the approval authority granting the extension. If the permit was issued in conjunction with another land use permit through a consolidated application procedure or in conjunction with a building permit, the design review permit shall be allowed an extension as allowed by the accompanying permit.

14.31.001 TOWNHOUSES*

14.31.010 Purpose. The purpose of this section is to allow for different ownership patterns by allowing townhouses in certain zones subject to specific development standards, to regulate the development of townhouses, and to outline specific development criteria and design parameters to protect public health, safety, and welfare.

14.31.020 Definitions. For the purposes of this section, the following definitions shall apply:

- A. **Parent Lot.** The legal lot or lots in existence prior to the townhouse development.
- B. **Townhouse.** A single-family dwelling in a row of at least two units in which each unit has its own front and rear access to the outside, no unit or portion thereof is located over another unit or portion thereof except for parking spaces or garages, each unit is separated from any other unit by one or more common walls, and each unit has its own underlying townhouse lot.
- C. **Townhouse Lot.** The underlying real estate associated with a townhouse.

14.31.030 Zoning Districts Where Townhouses are Located. Townhouse are an outright permitted use in the R-2, R-3, and R-4 zoning districts subject to the standards contained in this section.

14.34.040 Density. The overall density of a townhouse development shall not exceed the density allowed in the underlying zoning district and shall be computed on the parent lot.

14.34.050 Number of Units in Building. No separate building in a townhouse development may exceed six townhouse units.

14.35.060 Development Standards. All townhouse developments shall meet the following:

- A. Minimum lot size: None.**
- B. Maximum parent lot coverage: Underlying zone.
- C. Maximum height: Underlying zone.

- D. Minimum outdoor open space or patio: 150 square feet per townhouse.
- E. Minimum parking: 1.5 spaces per townhouse.***
- F. Minimum parent lot frontage: 25 feet.
- G. Minimum parent lot setback: Underlying zone.
- H. Utilities: Each dwelling unit shall be served by separate utilities.

*(*Added by Ordinance No. 1783 (1-20-98).*

***Amended by Ordinance No. 1791 (7-6-98).*

****Parking may be on each lot or in a common parking lot, carport, or garage for one or more townhouses.)*

(Not to Scale)

Lot 1 = 2,000 Sq. Ft./Lot 2 = 1,500 Sq. Ft./Lot 3 = 1,500 Sq. Ft.

14.31.070 Access. The parent lot shall have a minimum of 25 feet of frontage onto a street. For purposes of this section, a street can be either a public or private way dedicated for street purposes. Townhouse lots are not required to have frontage on a street, but in no case may a townhouse lot be further than 100 feet from a street. For townhouse developments where frontage for townhouse lots is not provided, an adequate turnaround as determined by the Fire Marshal on the parent lot is required. In addition, townhouse lots with no frontage shall have a perpetual easement across any and all lots that have frontage and any intervening lot.

14.31.080 Deed Covenant and Maintenance Agreements. The developer of a townhouse development shall provide the city with copies of any deed restrictions, covenants and conditions, and any maintenance agreements to the Community Development Director prior to final plat approval. Such documents shall be approved by the City Attorney and Community Development Director to assure that adequate provisions are contained in those documents for maintenance of buildings, utilities, landscaping, parking areas, common areas, private streets or drives, and other items held in common.

14.35.090 Process. Townhouse developments are permitted in the R-2, R-3, and R-4 zoning districts as an outright permitted use. However, since a townhouse development will require a segregation of lots, a partition or subdivision, as applicable, will be required with its

appurtenant requirements as per the City of Newport Subdivision Ordinance (No. 1285, as amended).

14.31.100 Exception for Reconstruction or Repair of Non-Conforming Townhouse Developments. Nothing in this Ordinance shall be construed to prohibit the complete reconstruction or repair of a non-conforming townhouse development that was in existence on or before February 1, 1998, subject to the conditions and requirements in effect when the townhouse development originally occurred.

14.32.001 NONCONFORMING USES, LOTS, AND STRUCTURES*

14.32.010 Purpose. The purpose of this section is to establish policy and guidelines for the regulation of nonconforming uses, lots, and structures. It is further the purpose of this section to work towards bringing nonconforming uses, lots, and structures into compliance with this Ordinance, the Comprehensive Plan, and other applicable ordinances and regulations.

14.32.020 General Provisions.

- A. For purposes of this section, the effective date of this ordinance is September 7, 1982, or the adoption date of any amendment if the amendment, rather than the ordinance originally adopted, creates a nonconforming situation.
- B. A nonconforming use, as defined in this ordinance, may be continued and maintained at its lawful nature and extent.
- C. Normal maintenance and repair of nonconforming structures is permitted.
- D. Nonconforming uses or structures may be altered, expanded, or replaced as provided in subsections 14.32.070 and 14.32.040 after verification under 14.32.030.
- E. An application to alter, expand, or replace a nonconforming use or structure may be processed and authorized under a Type II or Type III decision-making procedure as provided by Section 14.43.001, Procedural Requirements, in addition to the provisions of this section.
- F. A nonconforming use may expand onto neighboring properties.
- G. If a nonconforming use or structure is discontinued for a period of one year (12 continuous months) or more, further use of the property shall conform to the requirements of this ordinance.

(* Portions of this section were amended by Ordinance No. 1426 (4-1-85); Amended in its entirety by Ordinance No. 1679 (7-19-93); Amended in its entirety by Ordinance No. 1996 (1-7-10).)

14.32.030 Approval Authority. Upon receipt of an application, the Community Development Director or designee shall determine if an alteration, expansion, or replacement of a nonconforming use or structure qualifies for Type II or Type III review based on the standards established in this subsection. There shall be no appeal of the Director's determination as to the decision-making process, but the issue may be raised in any appeal from the final decision on the application.

- A. An application shall be processed and authorized using a Type II decision-making procedure when characterized by the following.
 - 1. The request is to alter, expand, or replace a nonconforming single-family dwelling or structure accessory thereto; or
 - 2. Alteration or expansion of a nonconforming use or structure is necessary in order to satisfy health and safety or Americans with Disabilities Act (ADA) requirements.
- B. All other applications for the alteration, expansion, or replacement of nonconforming uses or structures shall be processed and authorized using a Type III decision-making procedure.

14.32.040 Application Submittal Requirements. In addition to a land use application form with the information required in Section 14.43.020, the application shall include the following:

- A. For requests involving structures that do not satisfy required setbacks, the site plan shall also show survey monuments along the property line(s) adjacent to the encroachment.
- B. For requests involving structural work within required setbacks or construction that exceeds building height limitations, the application shall include exterior architectural elevations, drawn to scale, illustrating the proposed structure and adjoining finished ground elevations.

14.32.050 Nonconforming Lots.

- A. When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use,

except that the lot is smaller than the required minimum set forth in this Ordinance, then the lot may be used as proposed just as if it were conforming.

- B. This section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has had no structures upon it from the effective date to the date of intended use.

14.32.060 Verification of Status of Nonconforming Use or Structure

- A. Upon receiving an application to alter, expand, or replace a nonconforming use or structure, the approval authority shall determine that the use or structure is nonconforming. Such determination shall be based on findings that:

1. The use or structure was legally established at the time the Zoning Ordinance was enacted or amended; and
2. The use has not been discontinued for a continuous 12-month period.

The approval authority may require the applicant provide evidence that a use has been maintained over time. Evidence that a use has been maintained may include, but is not limited to, copies of utility bills, tax records, business licenses, advertisements, and telephone or trade listings.

- B. The approval authority shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the approval authority shall consider:

1. Description of the use;
2. The types and quantities of goods or services provided and activities conducted;
3. The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;
4. The number, location, and size of physical improvements associated with the use;
5. The amount of land devoted to the use; and

6. Other factors the approval authority may determine appropriate to identify the nature and extent of the particular use.
7. A reduction of scope or intensity of any part of the use as determined under this subsection for a period of 12 months or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

14.32.070 Alteration, Expansion, or Replacement of Nonconforming Uses or Structures.

- A. After verification of the status of a nonconforming use pursuant to subsection 14.32.030, the approval authority may authorize alteration, expansion, or replacement of any nonconforming use or structure when it is found that such alteration, expansion, or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the approval authority shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.
 1. The character and history of the use and of development in the surrounding area;
 2. The comparable degree of noise, vibration, dust, odor, fumes, glare, or smoke detectable within the neighborhood;
 3. Adequacy of infrastructure to accommodate the use. For the purpose of this subsection, infrastructure includes sewer, water, and streets;
 4. The comparative numbers and kinds of vehicular trips to the site;
 5. The comparative amount and nature of outside storage, loading, and parking;
 6. The comparative visual appearance;
 7. The comparative hours of operation;

8. The comparative effect on solar access and privacy;
 9. Other factors which impact the character or needs of the neighborhood.
- B. The approval authority must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of a nonconforming use or structure will have a greater adverse impact on the neighborhood.
 - C. To the extent there is a rational nexus, and the City can establish that needed improvements are roughly proportional to proposed development, an alteration, expansion, or replacement of a nonconforming use or structure shall be brought into compliance with provisions of the Zoning Ordinance that relate to:
 1. Surfacing of parking areas and landscaping;
 2. Exterior design of structures;
 3. Outdoor displays, storage, and signage.
 - D. Nonconforming residences in nonresidential zones may be altered, expanded, or replaced without the procedure outlined in subsections (A) through (C), above, provided such alteration, expansion, or replacement complies with the siting criteria contained in the R-4 zoning district.

14.32.080 Alteration, Expansion, or Replacement Due to Casualty Loss or Health, Safety and Related Standards.

Notwithstanding the provisions of subsection 14.32.070, after verification of the status of a nonconforming use, the approval authority may authorize the alteration, expansion, or replacement of a nonconforming use or structure based on findings that:

- A. The alteration or replacement is made necessary by fire, other casualty or natural disaster, provided the restoration or replacement is "in-kind" and an application is submitted within one year from the date of occurrence, or;
- B. The alteration, expansion, or replacement is necessary in order to satisfy health and safety or Americans with Disabilities Act (ADA) requirements.

14.33.001 ADJUSTMENTS AND VARIANCES*

14.33.010 Purpose. The purpose of this section is to provide flexibility to numerical development standards in recognition of the wide variation in property size, configuration, and topography within the City of Newport and to allow reasonable and economically practical development of a property.

14.33.020 General Provisions.

- A. Application for an Adjustment or Variance from a numerical standard including, but not limited to, size, height, or setback distance may be processed and authorized under a Type I or Type III decision-making procedure as provided by Section 14.43.001, Procedural Requirements, in addition to the provisions of this section.
- B. No Adjustment or Variance from a numerical standard shall be allowed that would result in a use that is not allowed in the zoning district in which the property is located, or to increase densities in any residential zone.
- C. In granting an Adjustment or Variance, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

14.33.030 Approval Authority. Upon receipt of an application, the Community Development Director or designate shall determine if the request is to be processed as an Adjustment or as a Variance based on the standards established in this subsection. There shall be no appeal of the Director's determination as to the type of application and decision-making process, but the issue may be raised in any appeal from the final decision on the application.

- A. A deviation of less than or equal to 10% of a numerical standard shall satisfy criteria for an Adjustment as determined by the Community Development Director using a Type I decision-making procedure.
- B. A deviation of greater than 10%, but less than or equal to 40%, of a numerical standard shall satisfy criteria for an Adjustment as determined by the Planning Commission using a Type III decision-making procedure.
- C. Deviations of greater than 40% from a numerical standard shall satisfy criteria for a Variance as

determined by the Planning Commission using a Type III decision-making procedure.

(Amended by Ordinance No. 1511 (1-18-88); amended by Ordinance No. 1828 (10-3-00); amended in its entirety by Ordinance No. 1992 (1-1-2010).)*

14.33.040 Application Submittal Requirements. In addition to a land use application form with the information required in Section 14.43.080, the petition shall include a site plan prepared by a registered surveyor that is drawn to scale and illustrates proposed development on the subject property.

- A. For requests to deviate from required setbacks, the site plan shall also show survey monuments along the property line subject to the Adjustment or Variance.
- B. For requests to deviate from building height limitations, the application shall include exterior architectural elevations, drawn to scale, illustrating the proposed structure and adjoining finished ground elevations.

14.33.050 Criteria for Approval of an Adjustment. The approval authority may grant an Adjustment using a Type I or Type III decision-making process when it finds that the application complies with the following criteria:

- A. Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and
- B. Any impacts resulting from the Adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and
- C. The Adjustment will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access; and
- D. If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zoning district.

14.33.060 Criteria for Approval of a Variance. The approval authority may grant a Variance using a Type III

decision-making process when it finds that the application complies with the following criteria:

- A. A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:
 - 1. The size, shape, natural features, and topography of the property, or
 - 2. The location or size of existing physical improvements on the site, or
 - 3. The nature of the use compared to surrounding uses, or
 - 4. The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or zoning district, or
 - 5. A circumstance or condition that was not anticipated at the time the Code requirement was adopted.
 - 6. The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.
- B. The circumstance or condition in "A" above is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.
- C. There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.
- D. Authorization of the Variance will not result in substantial adverse physical impacts to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Adverse physical impacts may include, but are not limited to, traffic beyond the carrying capacity of the street, unreasonable noise, dust, or loss of air quality. Geology is not a consideration because the Code contains a separate section addressing geologic limitations.

- E. The Variance will not interfere with the provision of or access to appropriate utilities, including sewer, water, storm drainage, streets, electricity, natural gas, telephone, or cable services, nor will it hinder fire access.
- F. Any impacts resulting from the Variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

14.34.001 CONDITIONAL USES*

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

14.34.020 General Provisions.

- A. Application for approval of a Conditional Use may be processed and authorized under a Type II or a Type III decision making procedure as provided by Section 14.43.001, Procedural Requirements, as well as the provisions of this Section.
- B. A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the approval authority.
- C. The findings and conclusions made by the approval authority and the conditions, modifications, or restrictions of approval, if any, shall specifically address the relationship between the proposal and the approval criteria listed in subsection 14.34.050, in the underlying zoning district, and any applicable overlay zones.
- D. An application shall be approved if it satisfies the applicable criteria or can be made to meet the criteria through imposition of reasonable conditions of approval. If findings or data or reasonable conditions cannot bring an application into compliance with the criteria, then the application shall be denied.

14.34.030 Approval Authority.

- A. Application for approval of a Conditional Use shall be processed and authorized using a Type II decision-making procedure where specifically identified as eligible for Type II review elsewhere in this Code or when characterized by the following:
 - 1. The proposed use generates less than 50 additional trips per day as determined in the document entitled

Trip Generation, an informational report prepared by the Institute of Traffic Engineers; and

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

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

*(*Amended in its entirety by Ordinance No. 1704 (4-18-94); Amended in its entirety by Ordinance No. 1991 (1-1-2010).)*

14.34.040 Application Submittal Requirements. Requests for a Conditional Use permit shall be filed with the Community Development Department on forms prescribed for this purpose. In addition to a land use application form with the information required in Section 14.43.080, the petition shall be accompanied by:

- A. A site plan drawn to scale showing the dimensions and arrangement of the proposed development on the applicant's lot; and
- B. A signing plan (if applicable); and
- C. Building elevations (if the building is existing, photographs documenting the building elevations are sufficient if no exterior changes are proposed); and
- D. The applicant's proposed findings of fact; and
- E. A list of affected property owners described in Section 14.39.060(C); and
- F. For commercial activities that are conditional, a proposed plan of business operation.

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

- A. The public facilities can adequately accommodate the proposed use.
- B. The request complies with the requirements of the

underlying zone or overlay zone.

- C. The proposed use does not have an adverse impact greater than existing uses on nearby properties, or impacts can be ameliorated through imposition of conditions of approval.

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

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

14.35.001 PD, PLANNED DEVELOPMENTS*

14.35.010 Purpose. The purpose of the Planned Development Permit is to provide a greater flexibility in development of land than may be possible under a strict interpretation of the provisions of this Ordinance. It is intended to encourage variety in the development pattern of the community and provides an opportunity for innovative and creative land development. It is further intended to achieve economics in land development, maintenance, street systems, and utility networks while providing building groupings for privacy, usable and attractive open spaces, safe circulation, and the general well being of the inhabitants. The planned development option serves to encourage developing as one project tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed.

14.35.020 Permitted Uses. An approved planned development permit may only include those uses permitted outright or conditionally in the underlying district, except that commercial uses as provided in the C-1/"Retail and Service Commercial" zone district may be permitted within residential zoned areas provided:

- A. The area surrounding the proposed location of the commercial uses is deficient in support of commercial opportunities;
- B. The proposed commercial development and uses will be primarily for the service and convenience of residents of the neighborhood; and
- C. The proposed commercial development and uses must be consistent with the purpose and regulations of the C-1/"Retail and Service Commercial" zone district.

14.35.030 Accessory Uses in Planned Development. In addition to the accessory uses typical for the primary or conditional uses authorized, accessory uses approved as a part of a planned development may include the following uses:

- A. Golf courses.
- B. Private parks, lakes, or waterways.

- C. Recreation areas.
- D. Recreation buildings, clubhouses, or social halls.
- E. Other accessory structures that the Planning Commission finds are designed to serve primarily the residents of the planned development and are compatible to the design of the planned development.

*(*Section amended in its entirety by Ordinance No. 2005 (July 7, 2010).)*

14.35.040 Preapplication Conference. Prior to actually filing the application with the city, the applicant shall meet with the Community Development Director and other city officials as may be necessary for preliminary staff review of the proposal.

14.35.050 Application Submission. An application for a planned development shall include a Preliminary Development Plan and Final Development Plan. Such plans may be submitted sequentially as separate applications, or they may be submitted at the same time for concurrent review. Submittal requirements for a Preliminary Development Plan are as described in Section 14.35.060. Submittal requirements for a Final Development Plan are as described in Section 14.35.090. Except as otherwise described in this Section, the procedure for review and approval of a planned development shall be in accordance with the provisions of Section 14.43.001, Procedural Requirements.

14.35.060 Submittal Requirements for Preliminary Development Plans. In addition to a land use application form with the information required in Section 14.43.080, an application for a Preliminary Development Plan shall include:

- A. Nine (9) copies of the Preliminary Development Plan that include the following information:
 - 1. A map showing street systems, lot or partition lines and other divisions of land for management, use, or allocation purposes, and status of street ownership.
 - 2. Areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semi-public uses, especially open spaces.

3. A plot plan for each building site and common open space area showing the approximate location of buildings, structures, and other improvements, indicating the open spaces around buildings and structures.
4. A narrative description in specific terms of the size and type of buildings, grading modifications, water supply, drainage, and sewage collection and disposal.
5. Elevation and perspective drawings of proposed structures.
6. A list of all variances to standards of this ordinance or any other city ordinance. All other standards for which variances have not been requested shall apply.
7. A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin.
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.
 - c. The anticipated rate of development.
 - d. The approximate dates when each stage in the development will be completed.
 - e. The area, location, and degree of development of common open space that will be provided at each stage.
8. Agreements, provisions, or covenants that govern the use, maintenance, and continued protection of the planned development and any of its common open space areas.
9. The following plans and diagrams, insofar as the reviewing body finds that the planned development creates special problems of traffic, parking, landscaping, or economic feasibility:
 - a. An off-street parking and loading plan.
 - b. A circulation diagram indicating proposed movement of vehicles, goods, bicycles, and pedestrians within the planned development and

to and from thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern shall be shown.

- c. A landscaping and tree plan.
- d. An economic feasibility report or market analysis.

10. The preliminary plan shall include enough information on the area surrounding the proposed development to show the relationship of the planned development to adjacent uses, both existing and proposed.

14.35.070 Criteria for Approval of a Preliminary Development Plan. The approval authority may approve an application for a Preliminary Development Plan when it finds that the application complies with the following criteria:

A. Size of the Planned Development Site.

- 1. A planned development shall be on a tract of land at least two acres in low-density residential areas, or;
- 2. A planned development may be allowed on any size tract of land in high-density residential areas if:
 - a. An unusual physical or topographic feature of importance to the people of the area or the community as a whole exists on the site or in the neighborhood that can be conserved and still leave the land owner equivalent use to the land by the use of a planned development.
 - b. The property or its neighborhood has a historical character of importance to the community that will be protected by the use of a planned development.
 - c. The property is adjacent to or across a street from property that has been developed or redeveloped under a planned development, and a planned development will contribute to the maintenance of the amenities and values of the neighboring development.

B. Dimensional and Bulk Standards.

- 1. The minimum lot area, width, frontage, and yard requirements otherwise applying to individual buildings in the zone in which a planned development

is proposed do not apply within a planned development.

2. If the spacing between main buildings is not equivalent to the spacing that would be required between buildings similarly developed under this Code on separate parcels, other design features shall provide light, ventilation, and other characteristics equivalent to that obtained from the spacing standards.
3. Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection outside the boundary lines of the development comparable to that otherwise required of development in the zone.
4. The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned development is proposed, except that a greater height may be approved if surrounding open space within the planned development, building setbacks, and other design features are used to avoid any adverse impact due to the greater height.
5. The building coverage for any planned development shall not exceed that which is permitted for other construction in the zone exclusive of public and private streets.

C. Project Density.

1. The planned development may result in a density in excess of the density otherwise permitted within the zone in which the planned development is to be constructed not to exceed 5%. An increase in density of over 5% but less than 10% can be permitted by the Planning Commission if the arrangement of yards and common open space is found to provide superior protection to existing or future development on adjacent property.
2. If the Planning Commission finds that any of the following conditions would be created by an increase in density permitted by this Section, it may either prohibit any increase in density or limit the increase in density by an amount which is sufficient to avoid creation of any of these conditions:

- a. Inconvenient or unsafe access to the planned development.
- b. Traffic congestion in the streets that adjoin the planned development.
- c. An excessive burden on sewerage, water supply, parks, recreational areas, schools, or other public facilities which serve or are proposed to serve the planned development.

D. Common Open Space.

1. No open areas may be accepted as common open space within a planned development unless it meets the following requirements:
 - a. The location, shape, size, and character of the common open space is suitable for the planned development.
 - b. The common open space is for amenity or recreational purposes, and the uses authorized are appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings provided.
 - c. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space are appropriate to the uses that are authorized for the common open space.
 - d. The development schedule that is part of the development plan coordinates the improvement of the common open space and the construction of buildings and other structures in the common open space with the construction of residential dwellings in the planned development.
 - e. If buildings, structures, or other improvements are to be made in the common open space, the developer shall provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Manager shall release the bond or other assurances when the buildings, structures, and

other improvements have been completed according to the development plan.

2. No common open space may be put to a use not specified in the Final Development Plan unless the Final Development Plan is first amended to permit the use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any use permitted are expressly reserved.
 3. If the common open space is not conveyed to a public agency, the covenants governing the use, improvement, and maintenance of the common open space shall authorize the city to enforce their provisions.
- E. The planned development is an effective and unified treatment of the development possibilities on the project site while remaining consistent with the Comprehensive Plan and making appropriate provisions for the preservation of natural features such as streams and shorelines, wooded cover, and rough terrain.
- F. The planned development will be compatible with the area surrounding the project site and with no greater demand on public facilities and services than other authorized uses for the land.
- G. Financial assurance or bonding may be required to assure completion of the streets and utilities in the planned development prior to final approval as for a subdivision (see the Newport Subdivision Ordinance, Newport Municipal Code Chapter 13.05).

14.35.080 Approval of the Final Development Plan.

- A. Within 12 months following the approval of the Preliminary Development Plan, the applicant shall file with the Planning Commission a Final Development Plan containing in final form the information required in the preliminary plan. At its discretion, the Planning Commission may extend for six months the period for the filing of the Final Development Plan.
- B. If the Community Development Director finds evidence of a major change in the approved Preliminary Development Plan, the Community Development Director shall advise the applicant to submit an application for amendment of

the planned development. An amendment shall be considered in the same manner as an original application.

14.35.090 Submittal Requirements for a Final Development Plan. In addition to a land use application form with the information required in Section 14.43.080, an application for a Final Development Plan shall include:

- A. The Final Development Plan may be submitted for any reasonably-sized portion of the area previously given preliminary approval for development. The Final Development Plan shall contain the following information:
 - 1. Proposed land uses, building locations, and housing unit densities.
 - 2. Proposed circulation patterns indicating the status of street ownership.
 - 3. Proposed open space locations and uses.
 - 4. Proposed grading and drainage patterns.
 - 5. Proposed methods of water supply and sewage disposal.

14.35.100 Criteria for Approval of a Final Development Plan. The approval authority may approve an application for a Final Development Plan when it finds that the application complies with the following criteria:

- A. The Final Development Plan must substantially conform to the land use and arterial street pattern as approved in the Preliminary Development Plan.
- B. The proposed uses shall be compatible in terms of density and demand for public services with uses that would otherwise be allowed by the Comprehensive Plan.
- C. Adequate services normally rendered by the city to its citizens must be available to the proposed development at the time of approval of the Final Development Plan. The developer may be required to provide special or oversized facilities to serve the planned development.
- D. Access shall be designed to cause minimum interference with traffic movement on abutting streets.
- E. The plan shall provide for adequate landscaping and

effective screening for off-street parking areas and for areas where nonresidential use or high-density residential use could be detrimental to residential areas.

- F. The arrangement of buildings, parking areas, signs, and other facilities shall be designed and oriented to minimize noise and glare relative to adjoining property.
- G. Artificial lighting, including illuminated signs and parking area lights, shall be so arranged and constructed as not to produce direct glare on adjacent property or otherwise interfere with the use and enjoyment of adjacent property.
- H. The area around the development can be developed in substantial harmony with the proposed plan.
- I. The plan can be completed within a reasonable period of time.
- J. The streets are adequate to serve the anticipated traffic.
- K. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- L. Land shown on the Final Development Plan as common open space shall be conveyed under one of the following options:
 - 1. To a public agency that agrees to maintain the common open space and any buildings, structures, or other improvements that have been placed on it.
 - 2. To an association of owners or tenants, created as a non-profit corporation under the laws of the State, which shall adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.
- M. The Final Development Plan complies with the requirements and standards of the Preliminary Development Plan.
- N. No building shall be erected in a planned development district except within an area contained in an approved Final Development Plan, and no construction shall be

undertaken in that area except in compliance with the provisions of said plan. All features required in the Final Development Plan shall be installed and retained indefinitely or until approval has been received from the Planning Commission or Community Development Director for modification.

14.35.110 Procedure for Modification of a Planned Development

- A. A minor change in the Preliminary or Final Development Plan may be approved by the Community Development Director. A minor change is any change that is not within the description of a major change as provided in the following subparts B and C of this Section.
- B. A major change in a Preliminary or Final Development Plan that includes a change from a more restricted use to a less restricted use, or a change in the location, width, or size of a collector or major thoroughfare street, or in the location or specifications for utilities that is likely to materially affect future street or utility plans of the City may be approved only by the Commission after public hearing.
- C. A major change in a Preliminary or Final Development Plan that includes any change in the character of the development or any increase in the intensity or density of the land use or in the location or amount of land devoted to specific land uses or any change in the location, width, or size of a collector or major thoroughfare street, or that substantially changes the location or specification for utilities but which will not materially affect future street or utility plans of the city may be approved by the Commission after public hearing.
- D. In considering any request for a change in a Preliminary or Final Development Plan, the Planning Commission shall apply the same standards as are provided in this Article for the approval of Preliminary or Final Development Plans. The Planning Commission may approve, reject, modify, or attach special conditions to a request for modification of a Preliminary or Final Development Plan. The Community Development Director in his reasonable discretion shall determine whether each request for modification of a Preliminary or Final Development Plan is a minor or major change within the remaining of subparts A, B, or C of this Section and shall determine or refer each request appropriately.

14.35.120 Control of the Development After Completion.

The Final Development Plan shall continue to control the planned development after it is finished, and the following shall apply:

- A. The Community Development Director, in issuing a certificate of completion of the planned development, shall note the issuance on the recorded Final Development Plan.
- B. After the certificate of completion has been issued, the use of the land and the construction, modification, or alteration of a building or structure within the planned development shall be governed by the approved Final Development Plan.
- C. After the certificate of completion has been issued, no change shall be made in development contrary to the approved Final Development Plan without approval of an amendment to the plan except as follows:
 - 1. Minor modification of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the final plan and do not increase the cubic footage of a building or structure.
 - 2. A building or structure that is totally or substantially destroyed may be reconstructed without approval of an amended planned development if it is in compliance with the purpose and intent of the Final Development Plan.
- D. An amendment to a completed planned development may be approved if it is required for the continued success of the planned development, if it is appropriate because of changes in conditions that have occurred since the Final Development Plan was approved, or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related land use regulations.
- E. No modification or amendment to a completed planned development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures, and improvements within the area of the planned development. All rights to enforce these covenants against any change permitted by this Section are expressly reserved.

14.35.130 Appeal. In the event that a dispute arises between the Planning Commission and the developer as to any provisions of the Final Development Plan, either party may appeal to the City Council, in accordance with the process outlined in Section 14.43.001. Should the developer appeal, a fee for an appeal in an amount set by the city shall be paid.

14.36.001 AMENDMENTS TO THE ZONING ORDINANCE

14.36.010 General. Whenever the public necessity and the general welfare require, the City Council of the City of Newport may, on its own motion, or on petition, or on recommendation of the City Planning Commission, (after said Planning Commission and City Council gives public notice and holds public hearings), amend, supplement, or change the regulations or the districts of this ordinance herein established.

14.36.020 Initiation of Amendment. An amendment, supplement, or change in this ordinance may be initiated by:

- A. A motion of the City Council.
- B. A motion by the City Planning Commission.
- C. A petition of the property owner or authorized representative to either the Planning Commission or the City Council.
- D. Referral to the Planning Commission. All requests for amendments, supplements, or changes in this ordinance shall, whether initiated with the City Council or otherwise, first be referred to the City Planning Commission.

14.36.030 Filing of Zone Change Petitions. Request for approval of a zoning text or zoning map change shall be filed with the City Manager and shall be upon forms prescribed for the purpose.

14.36.040 Record of Amendments. The City Recorder shall maintain a record of amendments to the text and map of this ordinance in a form convenient for the use of the public.

14.37.001 ANNEXATIONS*

14.37.010 Purpose. It is the purpose of this section to establish and define annexation terms, criteria, and procedures for when a request is made of the city to annex territory. It is further the purpose of this section to implement the Comprehensive Plan. This section does not apply to city initiated annexations pursuant to ORS Chapter 222.

14.37.020 Definitions. For purposes of this section, the following definitions shall apply:

- A. **Annexation.** The incorporation of county property into the corporate limits of the City of Newport.
- B. **Consent.** A signed document by those agreeing to be annexed.
- C. **Contiguous.** Touching and having a common boundary or point of intersection or separated only by a public right-of-way, stream, lake, bay, or other body of water.
- D. **Electorate.** A person living in an area proposed for annexation and registered to vote in Lincoln County.
- E. **Owner.** An individual, firm, association, syndicate, partnership, or corporation having legal title to land, or is under contract to purchase land, as indicated in the records of the Lincoln County Tax Assessor.

14.37.030 Filing of Application. Requests for annexation shall be filed with the Planning Director on forms prescribed for that purpose. The application shall be accompanied by:

- A. The consents of more than half of the owners of land who also own more than half of the land and more than half of the assessed value; or
- B. The consents of more than half the owners and more than half the electorate in the territory to be annexed.

14.37.040 Criteria. The sole criteria for annexations are:

- A. The required consents have been filed with the city; and
- B. The territory to be annexed is within the acknowledged urban growth boundary (UGB); and
- C. The territory to be annexed is contiguous to the existing city limits.

(Amended in its entirety by Ordinance No. 1752 (9-16-96).)*

14.37.050 Review and Procedure. Upon receipt of an application for annexation, the Planning Director shall determine within five (5) days whether or not the application is complete. If the application is found to be incomplete, the Planning Director shall return the application to the applicant along with an explanation of why the application is incomplete. The applicant shall have 30 days to submit the necessary materials to complete the application. If the necessary materials are not submitted within the 30 days period, the application shall be considered withdrawn. If the application is found to be complete, it shall be accepted.

After acceptance, the application shall be placed on the agenda of the Planning Commission for a public hearing for their review and recommendation, including a recommendation for an appropriate zoning designation, to the City Council. After the Planning Commission review and recommendation, the proposal shall be forwarded to the City Council for a public hearing. Notice and other procedural requirements for both the Planning Commission and City Council hearings shall be as contained in Section 14.43.001 of this Ordinance and Chapter 222 of the Oregon Revised Statutes.

14.37.060 Zoning Upon Annexation. The City Council shall determine at the time of annexation during the public hearings the appropriate zoning designation for the property to be annexed. The zoning shall be incorporated into the ordinance annexing the property and shall become effective at the same time the annexation is effective. Such zoning designation shall be in conformity with the Comprehensive Plan.