



**PLANNING COMMISSION WORK SESSION AGENDA**

**Monday, February 25, 2019 - 6:00 PM**

**City Hall, Conference Room A, 169 SW Coast Hwy, Newport, OR 97365**

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The meeting location is accessible to persons with disabilities. A request for an interpreter for the DEAF AND HARD OF HEARING, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

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1. CALL TO ORDER
  
2. UNFINISHED BUSINESS
  
- 2.A Potential Amendments to NMC Chapter 14.21, Geologic Hazards Overlay.  
[Geologic Hazards Overlay.pdf](#)
  
3. NEW BUSINESS
  
- 3.A Discussion on Interactive Real Estate Display in Nye Beach.  
[Interactive Real Estate Display.pdf](#)
  
4. ADJOURNMENT

# Memorandum

To: Planning Commission/Commission Advisory Committee  
From: Derrick I. Tokos, AICP, Community Development Director   
Date: February 22, 2019  
Re: Draft Revisions to NMC Chapter 14.21, Geologic Hazards Overlay

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Enclosed is a draft set of revisions to the City's geologic hazards regulations to require independent peer review for development in mapped active landslide areas. Other minor changes are included in the draft as well.

At a January 28, 2019 work session, Mona Linstromberg requested that the Commission consider this option given the expense that she and others incurred to have a report peer reviewed on appeal, for a project within an active landslide area near Jump-off Joe. The Commission was amenable to making changes to the Municipal Code and asked that this draft be prepared. Active landslide areas are one of several types of geologic hazards identified by the city. Others, such as active and high hazard dune and bluff erosion areas, potential landslide areas, prehistoric landslides, and other landslide risk areas would not require peer review.

As discussed at the work session, the amendments are targeted and narrow in scope, and are not intended to lead to a wholesale revision to the geologic hazard regulations.

If, after reviewing the changes, the Commission is comfortable initiating the code amendments, then a motion to that effect should be made at the regular session.

### Attachments

- Email and attached letter from Mona Linstromberg, dated 1/28/19
- February 25, 2019 Mark-up of NMC Chapter 14.21, Geologic Hazards Overlay
- Active Landslide Area Maps (North and South Newport)

**Derrick Tokos**

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**From:** Mona Linstromberg <lindym@peak.org>  
**Sent:** Monday, January 28, 2019 8:38 PM  
**To:** Derrick Tokos  
**Cc:** Elaine Karnes  
**Subject:** Jan 28/19 Planning Commission public comment  
**Attachments:** Spring St peer review comment planning.pdf

Thank you.

Mona Linstromberg  
Sent via my totally safe HARD WIRED internet connection

January 28, 2019

Newport Planning Commission:

For nineteen years I have been an active advocate for independent peer review (at cost to the applicant) of technical information in the land use arena. Previously, my focus was on getting a provision incorporated in the Lane County Telecommunications ordinance and, as it turned out, getting the word “may” changed to “shall” in Eugene’s code. Since I have spent a great deal of time on the legislative process and working with those codes in the field, I definitely have a perspective on the effectiveness and potential for effectiveness.

I am sure later I will have an opportunity to provide more detail, but suffice it to say that: 1) there need to be triggers that will mandate independent peer review or otherwise the discretionary provision may never get implemented, 2) the code itself must require and stipulate the technical data a peer reviewer needs to assess a technical application, and 3) the peer reviewer must perform probing and detailed analysis and not superficial “analysis” wholly reliant on the applicant’s assertions.

For the last fifteen months, tenacity and hard work have been essential in the work of the Spring St/Oceanview Drive neighbors and, more recently, the larger community. There, however, have been moments of serendipity such as Dr. Priest while out taking a walk snapped the pictures attached to Mr. Tokos’ Memorandum.

Thank you.



## CHAPTER 14.21 GEOLOGIC HAZARDS OVERLAY

### 14.21.010 Purpose

The purpose of this section is to promote the public health, safety, and general welfare by minimizing public and private losses due to earth movement hazards and limiting erosion and related environmental damage, consistent with Statewide Planning Goals 7 and 18, and the Natural Features Section of the Newport Comprehensive Plan.

### 14.21.020 Applicability of Geologic Hazards Regulations

- A. The following are areas of known geologic hazards or are potentially hazardous and are therefore subject to the requirements of [Section 14.21](#):
1. Bluff or dune backed shoreline areas within high or active hazard zones identified in the Department of Geology and Mineral Industries (DOGAMI) Open File Report O-04-09 Evaluation of Coastal Erosion Hazard Zones along Dune and Bluff Backed Shorelines in Lincoln County, Oregon: Cascade Head to Seal Rock, Technical Report to Lincoln County, dated 2004.
  2. Active or potential landslide areas, prehistoric landslides, or other landslide risk areas identified in the DOGAMI Open File Report O-04-09.
  3. Any other documented geologic hazard area on file, at the time of inquiry, in the office of the City of Newport Community Development Department.

A "documented geologic hazard area" means a unit of land that is shown by reasonable written evidence to contain geological characteristics/conditions which are hazardous or potentially hazardous for the improvement thereof.

- B. The DOGAMI Open File Report O-04-09 is not intended as a site specific analysis tool. The City will use DOGAMI Open File Report O-04-09 to identify when a Geologic Report is needed on property prior to development. A Geologic Report that applies to a specific property and that identifies a proposed development on the property as being in a different hazard zone than that identified in DOGAMI Open File Report O-04-09, shall control over

February 25, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards  
(Deleted language shown in ~~striketrough~~ and new language is underlined. Staff comments are preceded with the term "Staff" and are *italicized*.)

DOGAMI Open File Report O-04-09 and shall establish the bluff or dune-backed shoreline hazard zone or landslide risk area that applies to that specific property. The time restriction set forth in [subsection 14.21.030](#) shall not apply to such determinations.

- C. In circumstances where a property owner establishes or a Geologic Report identifies that development, construction, or site clearing (including tree removal) will occur outside of a bluff or dune-backed shoreline hazard zone or landslide risk areas, as defined above, no further review is required under this [Section 14.21](#).
- D. If the results of a Geologic Report are substantially different than the hazard designations contained in DOGAMI Open File Report O-04-09 then the city shall provide notice to the Department of Geology and Mineral Industries (DOGAMI) and Department of Land Conservation and Development (DLCD). The agencies will have 14 days to provide comments and the city shall consider agency comments and determine whether or not it is appropriate to issue a Geologic Permit.

*(\*Section amended by Ordinance No. 1601 (5-20-91) and then repealed and replaced in its entirety by Ordinance No. 2017 (8-17-2011).)*

#### 14.21.030 Geologic Permit Required

All persons proposing development, construction, or site clearing (including tree removal) within a geologic hazard area as defined in [14.21.010](#) shall obtain a Geologic Permit. The Geologic Permit may be applied for prior to or in conjunction with a building permit, grading permit, or any other permit required by the city.

Unless otherwise provided by city ordinance or other provision of law, any Geologic Permit so issued shall be valid for the same period of time as a building permit issued under the Uniform Building Code then in effect.

#### 14.21.040 Exemptions

The following activities are exempt from the provisions of this chapter:

- A. Maintenance, repair, or alterations to existing structures that do not alter the building footprint or foundation;
- B. An excavation which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- C. Fill which is less than two feet in depth, or which involves less than twenty-five cubic yards of volume;
- D. Exploratory excavations under the direction of a registered engineering geologist or geotechnical engineer;
- E. Construction of structures for which a building permit is not required;
- F. Removal of trees smaller than 8-inches dbh (diameter breast height);
- G. Removal of trees larger than 8-inches dbh (diameter breast height) provided the canopy area of the trees that are removed in any one year period is less than twenty-five percent of the lot or parcel area;
- H. Forest practices as defined by ORS 527 (the State Forest Practices Act) and approved by the state Department of Forestry;
- I. Maintenance and reconstruction of public and private roads, streets, parking lots, driveways, and utility lines, provided the work does not extend outside the area previously disturbed;
- J. Installation of utility lines not including electric substations; and
- K. Emergency response activities intended to reduce or eliminate an immediate danger to life, property, or flood or fire hazard.

#### 14.21.050 Application Submittal Requirements

In addition to a land use application form with the information required in Section 14.52.020, an application for a Geologic Permit shall include the following:

February 25, 2019 Mark-up Copy of Amendments to NMC Chapter 14.21, Geologic Hazards  
(Deleted language shown in ~~strike through~~ and new language is underlined. Staff comments are preceded with the term "Staff" and are *italicized*.)

- A. A site plan that illustrates areas of disturbance, ground topography (contours), roads and driveways, an outline of wooded or naturally vegetated areas, watercourses, erosion control measures, and trees with a diameter of at least 8-inches dbh (diameter breast height) proposed for removal; and
- B. An estimate of depths and the extent of all proposed excavation and fill work; and
- C. Identification of the bluff or dune-backed hazard zone or landslide hazard zone for the parcel or lot upon which development is to occur. In cases where properties are mapped with more than one hazard zone, a certified engineering geologist shall identify the hazard zone(s) within which development is proposed; and
- D. A Geologic Report prepared by a certified engineering geologist, establishing that the site is suitable for the proposed development; and
- E. An engineering report, prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), must be provided if engineering remediation is anticipated to make the site suitable for the proposed development.

#### 14.21.060 Geologic Report Guidelines

Geologic Reports shall be prepared consistent with standard geologic practices employing generally accepted scientific and engineering principles and shall, at a minimum, contain the items outlined in the most recent edition of the Oregon State Board of Geologist Examiners "Guidelines for Preparing Engineering Geologic Reports in Oregon," ~~"in use on the effective date of this section.~~ Such reports shall address subsections 14.21.070 to 14.21.090, as applicable. For oceanfront property, reports shall also address the "Geological Report Guidelines for New Development on Oceanfront Properties," prepared by the Oregon Coastal Management Program of the Department of Land Conservation and Development, in use as of the effective date of this section. All Geologic Reports are valid as prima facie evidence of the information therein contained for a period of five (5) years. They are only valid for the development plan

addressed in the report. The city assumes no responsibility for the quality or accuracy of such reports.

*Staff: Oregon State Board of Geologist Examiners guidelines are updated from time to time, with the most recent version dated 2014. Engineering geologists will use the most current version and the City code should reflect that practice.*

#### 14.21.070 Construction Limitations within Geologic Hazard Areas

- A. New construction shall be limited to the recommendations, if any, contained in the Geologic Report; and
  - 1. Property owners should consider use of construction techniques that will render new buildings readily moveable in the event they need to be relocated; and
  - 2. Properties shall possess access of sufficient width and grade to permit new buildings to be relocated or dismantled and removed from the site.

#### 14.21.080 Prohibited Development on Beaches and Foredunes

Construction of residential, commercial, or industrial buildings is prohibited on beaches, active foredunes, other foredunes that are conditionally stable and subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) that are subject to ocean flooding. Other development in these areas shall be permitted only if a certified engineering geologist determines that the development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves and is designed to minimize adverse environmental effects. Such a determination shall consider:

- A. The type of use proposed and the adverse effects it might have on the site and adjacent areas;
- 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; and
- D. Hazards to life, public and private property, and the natural environment that may be caused by the proposed use.

#### 14.21.090 Erosion Control Measures

In addition to completing a Geologic Report, a certified engineering geologist shall address the following standards.

- A. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;
- B. Development plans shall minimize cut or fill operations so as to prevent off-site impacts;
- C. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;
- D. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;
- E. Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;
- F. Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching, seeding, planting, or armoring with rolled erosion control products, stone, or other similar methods;
- G. All drainage provisions shall be designed to adequately carry existing and potential surface runoff from the twenty year frequency storm to suitable drainageways such as storm drains, natural watercourses, or drainage swales. In no case shall runoff be directed in such a way that it significantly decreases the stability of known landslides or areas identified as unstable slopes prone to earth movement, either by erosion or increase of groundwater pressure.



- H. Where drainage swales are used to divert surface waters, they shall be vegetated or protected as necessary to prevent offsite erosion and sediment transport;
- I. Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:
  - 1. Energy absorbing devices to reduce runoff water velocity;
  - 2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;
  - 3. Dispersal of water runoff from developed areas over large undisturbed areas;
- J. Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures; and
- K. Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, site monitoring and clean-up activities.

#### 14.21.100 Storm water Retention Facilities Required

For structures, driveways, parking areas, or other impervious surfaces in areas of 12% slope or greater, the release rate and sedimentation of storm water shall be controlled by the use of retention facilities ~~as when~~ specified by the City Engineer. The retention facilities shall be designed for storms having a 2025-year recurrence frequency. Storm waters shall be directed into a drainage with adequate capacity so as not to flood adjacent or downstream property.

*Staff: The Public Works Department settled on a more conservative 25-year design storm as the City standard after this code was last updated. They also do not require retention*

*in all circumstances. The proposed changes reflect their current practices regarding storm water management.*

#### 14.21.110 Approval Authority

An application shall be processed and authorized using a Type I decision making procedure.

#### 14.21.120 Peer Review within Active Landslide Zones

Upon receipt of an application for development within an active landslide zone, City shall refer the Geologic Report to a certified engineering geologist to perform a peer review during the 30-day period within which the application is reviewed for completeness. The peer reviewer shall confirm, in writing, that the Geologic Report was prepared in accordance with the requirements set forth in this Chapter. In the event the peer reviewer identifies the need for additional analysis or clarification, those comments shall be provided to the applicant so that they can be addressed by the Report's author.

In circumstances where a Geologic Report is accompanied by an engineering report, prepared by a licensed civil engineer, geotechnical engineer, or certified engineering geologist (to the extent qualified), that report shall be subject to peer review by an individual with equivalent qualifications in the same manner as described above.

City may require that a fee deposit be paid by the applicant to off-set the cost of the peer review, with the amount of the deposit being set by City Council resolution.

*Staff: This section is drafted to provide for peer review in active landslide areas, as discussed at the 1/28/19 work session. The Commission expressed a preference that the professional be independent of the applicant, and since their feedback may result in revisions to the application, it is important that the review occur before an application is deemed complete. A fee resolution would be prepared to address the fee deposit issue if this moves forward.*

#### 14.21.~~120~~130 Appeals of Geologic Permits

Any appeal from the issuance or denial of a Geologic Permit shall be filed within 15 calendar days of the date the city issues



a final order as provided by [Section 14.52.050](#). Appellants challenging substantive elements of a Geologic Report shall submit their own analysis prepared by a certified engineering geologist. Such report shall be provided within 30 days of the date the appeal is filed. A failure to submit a report within this timeframe is grounds for dismissal of the appeal.

#### 14.21.~~130~~140 Certification of Compliance

No development requiring a Geologic Report shall receive final approval (e.g. certificate of occupancy, final inspection, etc.) until the city receives a written statement by a certified engineering geologist indicating that all performance, mitigation, and monitoring measures contained in the report have been satisfied. If mitigation measures involve engineering solutions prepared by a licensed professional engineer, then the city must also receive an additional written statement of compliance by the design engineer.

#### 14.21.~~140~~150 Removal of Sedimentation

Whenever sedimentation is caused by stripping vegetation, grading, or other development, it shall be the responsibility of the person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems and to return the affected areas to their original or equal condition prior to final approval of the project.

#### 14.21.~~150~~160 Applicability of Nonconforming Use Provisions

- A. A building or structure that is nonconforming under [Section 14.32](#) of the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster shall be subject to the casualty loss provisions contained in [Section 14.32](#) of the Zoning Ordinance. Application of the provisions of this section to a property shall not have the effect of rendering it nonconforming.
- B. A building or structure that conforms to the Zoning Ordinance that is destroyed by fire, other casualty or natural disaster may be replaced with a building or structure of up to the same size provided a Geologic Report is prepared by a certified engineering geologist. A Geologic Report prepared pursuant to this subsection shall adhere to the Geologic Report Guidelines outlined in [subsection 14.21.030](#). All recommendations contained in

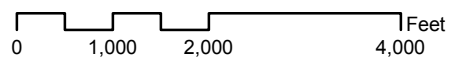
the report shall be followed, however the report need not establish that the site is suitable for development as required in [subsection 14.21.050\(D\)](#). An application filed under this subsection shall be processed and authorized as a ministerial action by the Community Development Department.





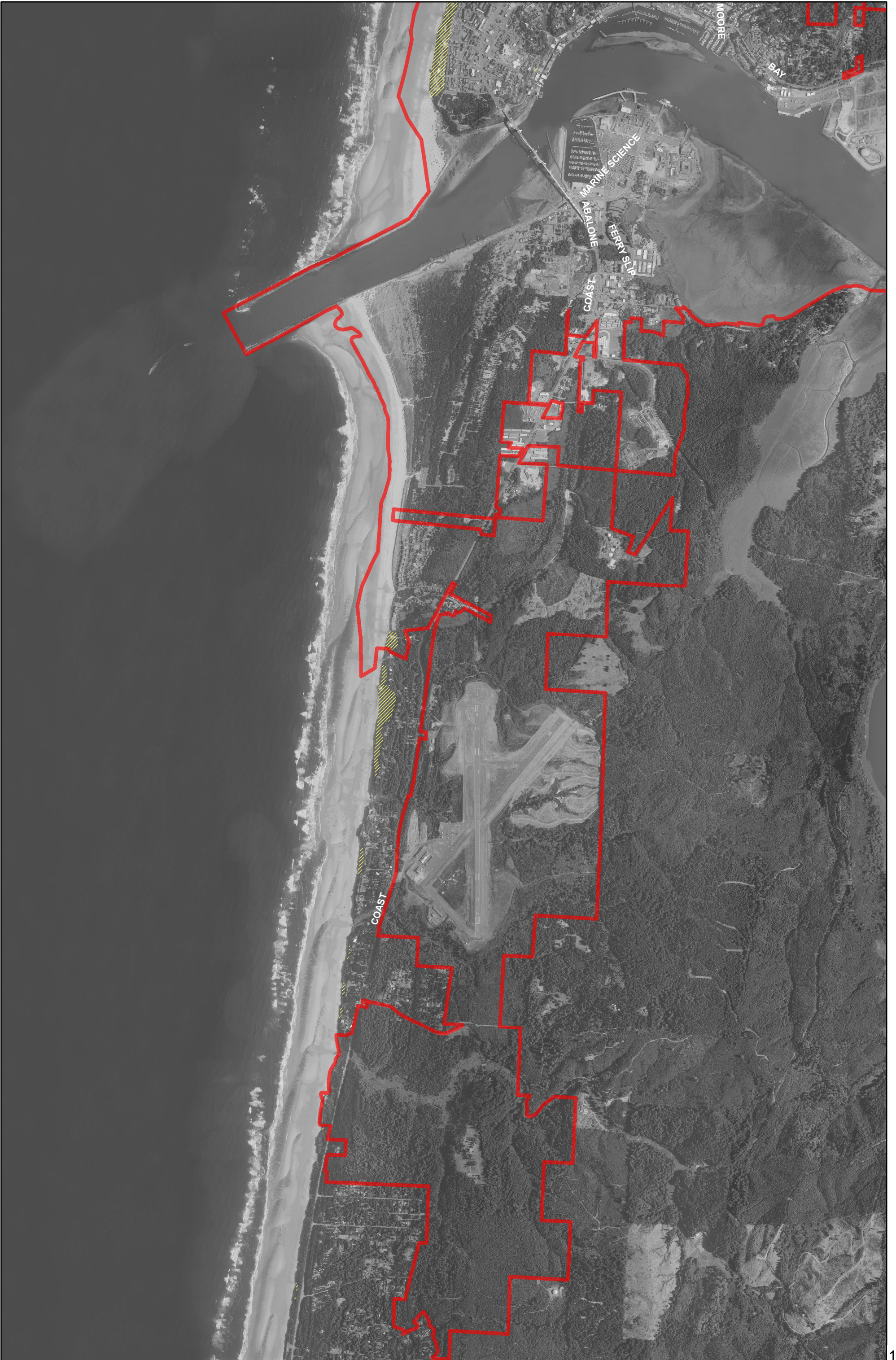
**North Newport Active Landslide Areas  
 (Highlighted in Yellow)**

Image Taken July 2018  
 4-inch, 4-band Digital Orthophotos  
 Quantum Spatial, Inc. Corvallis, OR



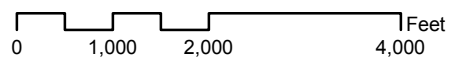
This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.





**South Newport Active Landslide Areas  
 (Highlighted in Yellow)**

Image Taken July 2018  
 4-inch, 4-band Digital Orthophotos  
 Quantum Spatial, Inc. Corvallis, OR



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# Memorandum

To: Planning Commission/Commission Advisory Committee

From: Derrick I. Tokos, AICP, Community Development Director

Date: February 22, 2019

Re: Interactive Real Estate Display in Nye Beach



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The City has been approached by Roland Woodcock, Seashore Homes Realty, who would like to setup an interactive display facing the street that would allow pedestrians to pan through pictures and other information they have for residential properties that are on the market. Mr. Woodcock is planning to attend the work session and will walk through a PowerPoint presentation to illustrate the concept.

The City of Newport sign code includes provisions for electronic message signs, and such signs are prohibited within the Nye Beach Design Review Overlay. The definition for an electronic message sign is listed at NMC 10.10.030(T)(1) and the prohibition in Nye Beach is at 10.10.085(E). Both provisions are highlighted in the attached code.

The electronic message sign provisions were added as a result of an application by Walgreens and are of the reader board variety. The concept of an interactive display was not discussed at the time. This work session provides is an opportunity for the Commission to consider whether or not it concurs that the display is an electronic sign and, if so, whether it might be amendable to amending the code to allow interactive displays if Mr. Woodcock were to submit an application to amend the code.

#### Attachments

- NMC Chapter 10.10, Signs

## CHAPTER 10.10 SIGNS

## 10.10.005 Short Title

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

## 10.10.010 Purpose

The purposes of the Newport Sign Code are:

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

## 10.10.015 Scope

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

## 10.10.020 Prohibited Signs

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

## 10.10.025 Conflicting Provisions

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

## 10.10.030 Definitions

The definitions in this section apply in this chapter.

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

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



- T. **Sign** means any medium, including structure and component parts, which is used or intended to be used to display a message or to attract attention to a message or to the property upon which such sign is located.
1. **Electronic Message Sign** means a permanent sign consisting of text, symbolic imagery, or both, that uses an electronic display created through the use of a pattern of lights in a pixilated configuration allowing the sign face to intermittently change the image without having to physically or mechanically replace the sign face, including an LED (Light Emitting Diode) sign, as distinguished from a static image sign.
  2. **Freestanding Sign** means any sign permanently attached to the ground that is not affixed to any structure other than the sign structure.
    - a. **Pole Sign** means a freestanding sign that is mounted on a pole or other support that is not as wide as the sign.
    - b. **Monument Sign** means a freestanding sign in which the sign structure is at least as wide as the sign.
  3. **Mural Sign** means a sign that is painted directly on the wall of a building or retaining wall, without any sign structure or additional surface.
  4. **Portable Sign** means a sign that is not attached to the ground or any structure and is movable from place to place. "Portable sign" does not include any sign carried or held by an individual.
  5. **Projecting Sign** means a sign attached to the wall or roof of a building with a sign face that is not parallel to the wall or roof.
  6. **Roof Sign** means a sign attached to a roof of a building, or a sign attached to a wall of a building but extending above the top edge of the wall where the sign is located.
  7. **Temporary Sign** means any sign, regardless of construction materials, that is not permanently mounted and is intended to be displayed on an irregular basis for a limited period of time

- 8. **Wall Sign** means any sign attached to a wall of a building that does not extend above the wall of the building and is parallel to and within one foot of the wall.
- 9. **Window Sign** shall mean any sign placed inside or upon a window facing the outside and which is visible from the exterior.
- U. **Sign Business** means the business of constructing, erecting, operating, maintaining, leasing, or selling signs.
- V. **Sign Structure** means the supports, upright braces, and framework of the sign.

#### 10.10.035 Application, Permits, and Compliance

- A. Except as exempted by this chapter, no person shall erect, replace, reconstruct, move, or remove any permanent sign without a sign permit, or place a temporary or portable sign without a sign permit. All signs shall comply with this chapter and any other applicable law. Any sign permit may be withdrawn for violation of this chapter or any other applicable law.
- B. Written applications on city forms are required. The applicant shall provide the following information:
  - 1. Name, address, and telephone number of the applicant.
  - 2. Proposed sign location, identifying the property and any building to which the sign will be attached.
  - 3. A sketch, plan, or design showing the method of attachment, structure, design, and such other information necessary to allow a determination of compliance. Nothing in this section requires the applicant to provide any information regarding the content of any message displayed on the sign.
  - 4. Grade, height, dimensions, construction materials, and specifications.
  - 5. Underwriter Laboratories certification in the case of an electrical sign.

6. Name and address of the person, firm, corporation, or other business association erecting the structure.
- C. The city shall issue a sign permit based on a determination that the proposed sign complies with this chapter and other applicable law. Construction of the sign must be completed within 90 days after issuance of the sign permit. An extension of the 90-day period may be granted. If a sign was partially constructed and not completed within the 90-day period or any extension, the partially completed work shall be removed. Permits shall specify the location, size, and type of sign, and any conditions applicable to the sign. Permits for temporary signs and portable signs in rights of way shall specify the duration of the permit and/or the times when the signs may be in place.
  - D. When electrical permits are required, they shall be obtained and the installation approved prior to making connection to the electrical power source.
  - E. Permit fees shall be established by resolution of the City council, and paid with submission of the sign permit application, as follows:
    1. For the erection, placement, replacement, reconstruction, or relocation of a sign. Such fee shall be supplemented by a surcharge for a mural sign that exceeds the maximum permissible size for a wall sign in the same location. Non-profit organizations are exempt from the requirement to pay the supplemental fee for a mural sign.
    2. For the repair, demolition, or removal of an existing sign and/or its supporting structure.
    3. For temporary signs placed in the right of way. Non-profit organizations are exempt from the requirement to pay this fee.
    4. For portable signs placed in the right of way. Such fee shall include a monthly charge for use of the public right-of-way. Non-profit organizations are exempt from the requirement to pay either fee required by this section.

#### 10.10.040 Signs in Public Rights-of-Way

- A. Except as provided in this section, permanent signs wholly located within rights-of-way are prohibited. A sign permit does not allow a sign to project into any part of any public right-of-way unless expressly stated in the permit. Each applicant shall determine the location of the public right-of-way and whether any proposed permanent sign will project into any public right-of-way. Any sign permit that allows a sign projecting into any public right-of-way shall be revocable at any time by the city with or without cause.
- B. Permits are required for temporary or portable signs within rights-of-way and may be issued only if authorized in this section.
1. Permits for temporary and/or portable signs in rights-of-way may be granted if the sign is to be in place for no more than five consecutive days and no more than 10 total days in a calendar year.
  2. Permits for portable signs within rights-of-way for more than five consecutive days and more than 10 total calendar days in a year may be granted if the portable sign is placed adjacent to a business location operated by the permittee, the sign is removed at all times when the business is not open, and the sign is within the following areas:
    - a. On SW Coast Highway between SW Angle Street and SW Fall Street.
    - b. On SW Bay Street between SW Naterlin Drive and SW Bay Boulevard. On Bay Boulevard between SW Bay Street and SE Moore Drive.
    - c. On Hurbert Street between SW 7<sup>th</sup> Street and SW 9<sup>th</sup> Street.
    - d. In the area bounded by Olive Street on the south, NW 6<sup>th</sup> Street on the north, SW High Street and NW Coast Street on the east and the Pacific Ocean on the west, including both sides of each named street. For purposes of this section, "Olive Street" means both Olive Street and the area that Olive Street would occupy if it continued straight to the Pacific Ocean west of SW Coast Street.

- e. On SE Marine Science Drive/SE OSU Drive between SE Pacific Way and Yaquina Bay.
- f. In that portion of the South Beach area of Newport, east of Highway 101, west of Kings Slough, south of the intersection of Highway 101 and 40<sup>th</sup> Street and north of the intersection of Highway 101 and 50<sup>th</sup> Street.

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

- 3. Permits may be granted under Subsections B.1 and B.2 of this section only if:
  - a. The sign is not within any vehicle travel lane;
  - b. The sign does not restrict clear vision areas at intersections and driveway access points; and
  - c. The sign does not prohibit pedestrian movement on a sidewalk.
- C. The following signs are exempt from the prohibitions and requirements of this section:
  - 1. Sign placed by the city or other governmental entity with responsibility for the right-of-way.
  - 2. Permanent signs placed in a location where allowed by a license or easement from the city to an adjacent property owner to occupy the right-of-way. Signs allowed by this exemption must comply with all other requirements of this chapter, and the display area of the signs will be included in the calculation of the maximum display area of the adjacent property.
  - 3. Signs not exceeding one square foot on a pole in the right-of-way placed on the pole by its owner.
- D. Signs placed in ODOT right-of-way may also require approval from ODOT.
- E. No permit may be issued for a sign in the right-of-way unless the applicant provides proof of liability insurance in an amount determined to be sufficient by the city manager.

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

10.10.045 Prohibited Signs

No sign shall be constructed, erected, or maintained:

- A. That uses lights unless effectively screened, shielded, or utilized so as not to direct light directly into the eyes of motorists traveling on any street or highway.
- B. That includes any single light bulb that creates more light than a 60 watt incandescent bulb (800 lumens).
- C. That uses neon tubing on the exterior surface of a sign for sign illumination where the capacity of such tubing exceeds 300 milliamperes rating for white tubing or 100 milliamperes rating for any other color of tubing.
- D. That uses flashing or intermittent light.
- E. That uses any type of rotating beacon light, zip light, or strobe light, or any light not directed to or part of the illumination of the sign.
- F. That uses wind-activated devices or devices which flutter in the wind, such as propellers, but excluding flags, banners, and pennants.
- G. That is flashing, blinking, fluctuating, or animated, that has parts that are flashing, blinking, fluctuating, or animated; or that includes similar effects.
- H. That uses a guy wire for support of a sign, except where there exists no other means of support for a sign otherwise conforming to the requirements of this chapter.
- I. That has any visible moving parts, visible revolving parts, visible mechanical movement of any description, or any other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations or movement or action by wind currents.
- J. That is erected at the intersection of any street that substantially obstructs free and clear vision of motorists, pedestrians and cyclists, or at any location where it may

interfere with, obstruct, or be confused with any authorized traffic sign.

- K. While subject to these prohibitions, this section shall not be construed to prohibit electronic message signs where expressly permitted elsewhere in this chapter.

#### 10.10.050 Projection and Clearance

- A. Signs shall not project more than 3 feet over any public right-of-way, and in no case shall be within 2 feet of a traveled roadway.
- B. The minimum clearance of any sign over driveways, parking lots, or public right-of-ways is 16 feet, excepting that the minimum clearance of any sign over a sidewalk is 8 feet, unless the sidewalk is used as a driveway.

#### 10.10.055 Exempt Signs

The following signs are exempt from regulation under this chapter:

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

#### 10.10.060 Partially Exempt Signs

- A. The following signs are exempt from the permit requirement and, except as expressly provided to the contrary, do not count towards maximum display area:
  1. One sign not exceeding two square feet on each property with a separate street address, placed flat against the building.

2. In a residential zone on a property where a home occupation is legally conducted, a non-illuminated sign not exceeding two square feet in area, placed flat against the building.
  3. Signs placed on post boxes.
  4. Non-illuminated signs on private property oriented towards internal driveways and parking areas, not to exceed 3 square feet in area.
  5. Signs that are an integral part a building, including those cut into any masonry surface, as well as signs integrated into the structure of a building constructed of bronze or other non-combustible materials.
  6. Signs placed within a public right of way place by the public entity with responsibility for administering the right of way.
  7. Flags.
- B. Each religious institution is allowed to have, in addition to signage otherwise allowed, additional signage not to exceed 48 square feet in area, including each face of any multiple faced sign. No single sign face may exceed 24 square feet, except reader boards, which may not exceed 32 square feet and bulletin boards, which may not exceed 16 square feet. The sign(s) allowed by this subsection are exempt from the maximum total display area standard.
- C. Each community center and educational institution is allowed one reader board not exceeding 32 square feet in area in addition to other allowed signs. The sign allowed by this subsection is exempt from the maximum total display area standard.
- D. Temporary signs complying with all of the following are permitted in all zones without a permit, in addition to any other permitted signs:
1. The signs must be entirely on private property and outside of any vision clearance areas.
  2. The signs do not exceed 20 square feet of display area or any horizontal or vertical dimension of 8 feet.



3. The signs are not erected more than 90 days prior to the date of an election and they are removed within 30 days after the election.
  4. They are erected or maintained with the consent of the person or entity lawfully in possession of the premises and any structure to which they are attached.
- E. One temporary portable sign per business placed on private property is permitted. Temporary portable signs shall be made of permanent, durable materials and shall be maintained in a good condition. Temporary signs (portable and attached) in the aggregate may not exceed 24 square feet for all display area surfaces on a single property. Temporary signs shall not be included in the calculation of total maximum display area. All portable signs shall be weighted, anchored, or constructed so that they will not move or collapse in the event of wind, or otherwise create a hazard.

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

#### 10.10.065 Signs at Subdivision Entrances

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

#### 10.10.070 Vehicle Signs

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

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

## 10.10.075 R-1, R-2, and R-3 Residential Districts

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

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

## 10.10.080 R-4 Residential District

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

- A. For residential uses, signs allowed in the R-1, R-2 and R-3 districts.
- B. For hotels, motels, recreational vehicle parks, and movie theaters, no more than two illuminated signs that do not exceed 100 square feet in total area. The signs may be internally or externally illuminated, but may not include electronic message signs.
- C. For all other uses, a maximum of 20 square feet of sign area per street frontage. The maximum area shall be a combination of wall and freestanding signs. Freestanding signs shall be set back a minimum of 10 feet from all property lines and shall not exceed 8 feet in height. No sign may be internally illuminated.

## 10.10.085 Commercial, Industrial, and Marine Districts

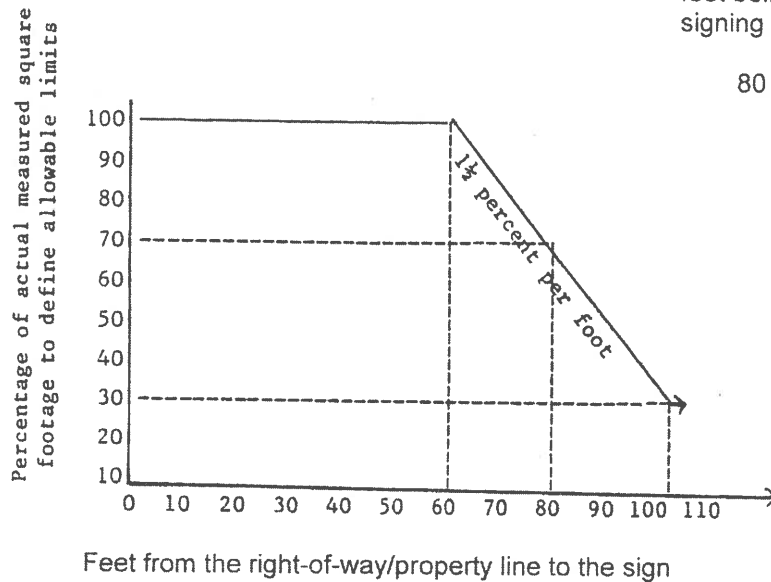
In commercial, industrial, and marine zoning districts, signs are allowed subject to the following parameters:

- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be

counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.

- C. Each street frontage of a business shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.
- E. Except within marine zoning districts or the Historic Nye Beach Design Review District, electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
  - 1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
  - 2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision does not apply to the display of time, date and temperature information.
  - 3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
  - 4. Is turned off between the hours of 11 p.m. and 6:00 a.m. unless the sign is associated with a business that is open to the public, in which case the sign may stay illuminated until the business is closed.
  - 5. Does not contain or display animated, moving video, flashing, or scrolling messages.
  - 6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.

- 7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
  - 8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.
- F. Mural signs.
- G. Each street frontage of a business shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.
- H. Notwithstanding any limitation on total sign area, each separate business is allowed at least 50 square feet of display area.
- I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:



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

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

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

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

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

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

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

#### 10.10.090 Signs in Shopping Centers

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

- A. The maximum number of freestanding signs on shopping center properties is two and the maximum number of freestanding signs on multiple business properties is one.
- B. The maximum number of wall signs for shopping centers and multiple business properties is one per street frontage.
- C. For both shopping centers and multiple business properties, the maximum total area display area of all freestanding and wall signs and is one square foot for each lineal foot of street frontage, with a maximum of 200 square feet per sign. Only one side of a double-faced freestanding sign shall be including in the calculation of display area, provided that the sign faces are 180 degrees opposed and separated by two feet or less.

- D. In addition to the signs allowed by subsections A through C, each individual business may erect wall signs on the premises controlled by the individual business of up to two square feet of display area for each lineal foot of frontage. For the purposes of this subsection, the term frontage means the distance, measured in a straight line, along any one wall of the business premises facing and providing public access to the separate premises of the business. Where a business has entrances allowing public access on more than one frontage, wall signs may be erected for each frontage, but the display area maximum shall be calculated separately for each frontage.
- E. The provisions of NMC 10.10.085 for signs in commercial, industrial, or marine districts apply to shopping centers and multiple business properties except as modified by this subsection.

#### 10.10.095 P1, P2, and P3 Public Districts

In public zoning districts, signs are allowed subject to the following parameters:

- A. The maximum total area for roof and wall signs is two square feet of display area for each lineal foot of street frontage.
- B. The maximum total area for projecting and freestanding signs is one square foot of display area for each lineal foot of street frontage. Projecting and freestanding signs having two sides facing in opposite directions shall be counted as having only one face, which shall be the larger of the two faces if not of equal size. Only the larger face of back-to-back signs within two feet of each other and signs on opposite parallel ends of awnings shall be counted towards total maximum size.
- C. Each street frontage of a property shall be limited to not more than 2 signs, only one of which may be other than a wall sign unless there is more than 200 lineal feet of street frontage, in which case one additional sign is permitted. Where a property contains an electronic message sign, only one freestanding sign is permitted.
- D. Window signs shall not exceed 16 square feet in area. Window signs are not included in the calculation of total display area.

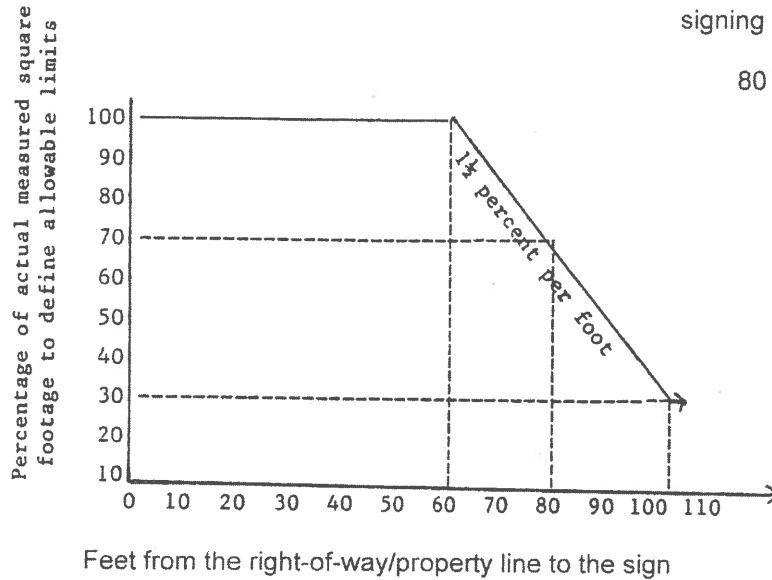
- E. Electronic message signs on properties with no more than one freestanding sign of up to 20 feet in height, provided the electronic message sign:
1. Is less than or equal to thirty-five percent (35%) of the total allowable sign area per sign face.
  2. Displays text, symbolic imagery, or a combination thereof for a period of time in excess of (5) minutes before a change occurs. This provision does not apply to the display of time, date and temperature information.
  3. Changes the entire display text, symbolic imagery, or combination thereof within two (2) seconds.
  4. Is turned off between the hours of 11 p.m. and 6:00 a.m. unless the sign is associated with a facility that is open to the public, in which case the sign may stay illuminated until the facility is closed.
  5. Does not contain or display animated, moving video, flashing, or scrolling messages.
  6. Contains a default mechanism that freezes the sign in one position if a malfunction occurs.
  7. Automatically adjusts the intensity of its display according to natural ambient light conditions.
  8. Adheres to a maximum night-time illumination standard of 0.3 foot-candles as measured from a distance, in lineal feet, from the sign that is equivalent to the square root of the display area, in square feet, multiplied by 100.
- F. Mural signs.
- G. Each street frontage of a property shall be limited to no more than 200 square feet of display area for all non-exempt signs other than mural signs.
- H. Notwithstanding any limitation on total sign area, each separate building is allowed at least 50 square feet of display area.

- I. The maximum display area allowed shall be adjusted based on distance from the nearest property line, using the graph below:

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

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

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



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

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

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

- J. The maximum height of all signs other than mural signs shall be no greater than 30 feet above grade.

- K. The maximum horizontal or vertical dimension of the display surface of any sign other than mural signs shall not exceed:

1. Thirty feet for freestanding and roof signs on properties adjacent to Highways 101 or 20 that are located at least 125 feet from the center line of the highway and at least 76 feet from the center line of any other street.



2. Fifty feet or the width of the wall for wall sign horizontal dimension.
3. Except as otherwise provided by this chapter, the maximum horizontal or vertical dimension of any display surface shall not exceed 20 feet.

#### 10.10.100 Construction and Safety Requirements

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

#### 10.10.105 Dangerous and Abandoned Signs

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

#### 10.10.110 Removal of Signs in Rights-of-Way

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

set by Council resolution. If the city reasonably estimates the value of the sign materials to be less than \$10.00, the city may immediately dispose of any sign left in the right-of-way without notice.

#### 10.10.115 Remedies

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

#### 10.10.120 Nonconforming Signs

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

#### 10.10.125 Content and Interpretation

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

### 10.10.130 Variance Requirements

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

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

### 10.10.135 Violations

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

*(Chapter 10.10 was enacted by Ordinance No. 2037 on May 21, 2012; effective June 20, 2012.)*

*(Chapter 10.10 was repealed and re-enacted by Ordinance No. 2075; adopted on January 5, 2015; effective February 5, 2015.)*

### 10.10.140 Sign Adjustment and Variance Requirements

- A. Purpose. Adjustments and Variances to the numerical standards of the sign code are intended to allow flexibility while still fulfilling the purpose of the Code.
- B. Procedure.
1. Any person may seek an Adjustment or Variance to the numerical provisions of this Chapter or of Chapter 10.15 by filing an application with the Community Development Director or designate on a form prescribed for that purpose. Upon receipt of an application, the Director or designee shall determine if the request shall be processed as an Adjustment or as a Variance according to the procedure provided in Section 14.33.030 of the Zoning Ordinance.
  2. The fee shall be the same as for a zoning Adjustment or Variance. No Adjustment or Variance shall be permitted that would negate the provisions of NMC Section 10.10.045, Prohibited Signs.
  3. In addition to the application submittal requirements of Section 14.33.040 of the Zoning Ordinance, the applicant must provide an inventory of all signs including the location, type, and size of each sign on the property.
  4. Approval criteria in (C) below are to be used when evaluating applications for Adjustments or Variances to the sign code, rather than those provided in Section 14.33.050 of the Zoning Ordinance.
- C. Criteria. The approval authority must find that the application for an Adjustment or Variance complies with the following criteria:
1. The Adjustment or Variance is consistent with the purposes of the sign code, as provided in Chapter 10.10.010 or 10.15.005 of the Newport Municipal Code, as applicable; and
  2. The Adjustment or Variance will allow for placement of a sign with exceptional design, style, or circumstance, or will allow a sign that is more consistent with the architecture and development of the site; and

3. The Adjustment or Variance will not significantly increase or lead to street level sign clutter, or will it create a traffic or safety hazard.

*(Chapter 10.10.140 was enacted by Ordinance No. 2090, adopted on January 19, 2016; effective February 18, 2016.)*