

(Unless otherwise specified, new language is shown in double underline, and text to be removed is depicted with ~~strike through~~. Staff comments, in *italics*, are for context and are not a part of the revisions.)

CHAPTER 14.01 PURPOSE, ~~APPLICABILITY~~, AND DEFINITIONS**

14.01.~~010005~~ Purpose

The several purposes of this ~~ordinance~~ Chapter are: ~~t~~To implement the Comprehensive Plan; to encourage the most appropriate use of the land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open spaces for light and air; to lessen the congestion on streets; to allow for orderly growth in the city; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and, in general, to promote public health, safety, convenience, and general welfare. The standards and conditions contained herein have been reviewed and deemed consistent with Comprehensive Plan policies.

14.01.010 Applicability

The rules, requirements, and provisions of this Chapter are in addition and not in lieu of any prior ordinance, resolution, rule, requirement, or procedure previously adopted by the City of Newport except as may have been expressly repealed, provided, however, that the provisions of this Chapter shall be controlling in cases where there may be conflicting provisions.

Staff: Moved from what is presently Chapter 14.54. Applicability language should be included at the beginning of the code chapter with the purpose section.

14.01.015 Compliance Required

No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ~~Ordinance~~Chapter.

Staff: Moved from what is presently Chapter 14.55. Compliance required language should be included at the beginning of the code chapter.

14.01.020 Definitions

As used in this ~~ordinance~~Chapter, the masculine includes the feminine and neuter, and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

Accessory Dwelling Unit. An interior, attached, or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

Accessory Structure or Use. A structure or use incidental and subordinate to the primary use of the property and which is located on the same lot or parcel as the primary use or is on a contiguous lot or parcel under the same ownership. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

Accessway. A walkway providing a through connection for pedestrians between two streets, between two lots, or between a development and a public right-of-way. It may be an accessway for pedestrians and bicyclists (with no vehicle access), or a walkway on public or private property (i.e., with a public access easement); it may also be designed to accommodate emergency vehicles.

Adult Recreation Facility. A facility or that portion of a facility that may have any uses allowed in family recreation facilities. In addition, card rooms, taverns, and bars are also adult recreation facilities. Social gambling, as defined by Oregon law and city ordinance, may occur. Alcoholic beverages may be sold and consumed.

Affordable Housing. Means residential property in which:

- A. Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income as determined by the

Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; or

- B. The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income.

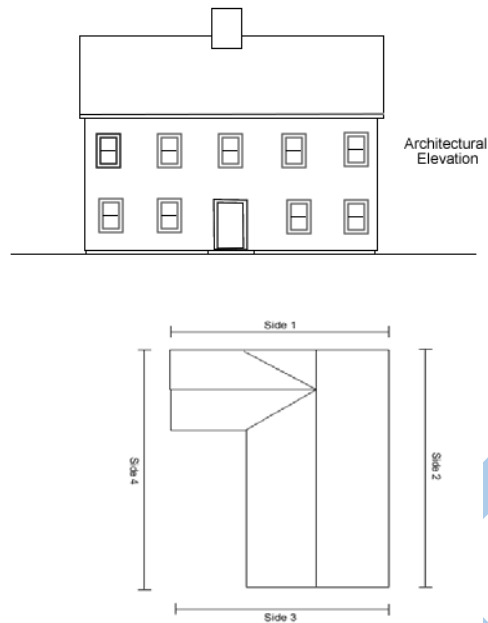
Affordability under either of the above metrics is enforceable, including as described in ORS 456.270 to 456.295, for a duration of no less than 30 years.

Alley. A narrow street ~~25 feet or less~~ through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street. ~~Frontage on said alley shall not be construed as satisfying the requirements of this Ordinance related to frontage on a dedicated street.~~

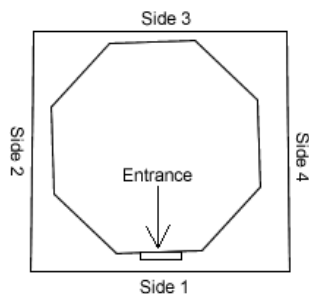
Apartment House. A residential structure having multiple residential living units where more than 50 percent of the units are rented for not less than 30 days at a time.

Applicant. A person who applies for a land use action or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

Architectural Elevation. *** A scale drawing of the four sides of a building, one each for the front, two sides and rear, from grade to the highest point of the building. The four sides shall show the entire perimeter of the building and shall be centered on each side. The four sides shall be at 90 degrees to each adjacent side.



For a building with many sides or a non-rectangular shape, a rectangle shall be drawn around the outside of the building. Side 1 shall be centered on the entry to the building and each of the other three sides shall be 90 degrees to the adjacent side. Architectural elevations for use in the building height calculation shall be drawn for each side of the rectangle.



Assisted Living Facility. A facility licensed by or under the authority of the Department of Human Resources (DHR) per Oregon Administrative Rule 411-56-000, which provides or coordinates a range of services for elderly and disabled persons in a home-like environment. An assisted living facility is required to provide each resident with a separate living unit with a lockable door to guarantee their privacy, dignity, and independence.

Authorized Agent. A property management company or other entity or person who has been designated by the owner to act on their behalf. An authorized agent may or may not be the designated point of contact for complaints.

Automobile Service Station. A building or portion thereof and land used for dispensing automobile fuel, oil, and accessories. Automobile repairs may be made that do not produce an unreasonable or excessive amount of dust, odor, smoke, fumes, or noise. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

Bed and Breakfast Facility. A short-term rental where the operator resides on the premises and meals are provided for a fee.

Bedroom. A habitable room that (a) is intended to be used primarily for sleeping purposes; (b) contains at least 70-square feet; and (c) is configured so as to take the need for a fire exit into account.

Boarding, Lodging, or Rooming House. A building or portion thereof containing a single dwelling unit where a group of four or more unrelated persons may live but not more than 20 unrelated persons. A boarding, lodging, or rooming house may be occupied and managed by a family in addition to the four to twenty unrelated persons. Where such a facility has a majority of the residents residing for 30 days or longer, it shall be considered a residential use and a boarding house. If the majority of such occupancy is for less than 30 continuous days, the facility shall be considered transient and the same as a hostel. Where such a facility is occupied by more than 20 unrelated persons, or where such a facility has more than one kitchen, it shall be considered a hotel or motel.

Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Child Care Center. means a child care facility, other than a family child care home, that is certified under ORS 329A.280.

Child Care Facility. means any facility that provides child care to children, including a day nursery, nursery school, child care center, certified or registered family child care home or similar unit operating under any name, but not including any:

- A. preschool recorded program.
- B. Facility providing care for school-age children that is primarily a single enrichment activity, for eight hours or less a week.
- C. Facility providing care that is primarily group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. Facility operated by:
 - 1. A school district as defined in ORS 332.002;
 - 2. A political subdivision of this state; or
 - 3. A governmental agency.
- E. Residential facility licensed under ORS 443.400 to 443.455.
- F. Babysitters.
- G. Facility operated as a parent cooperative for no more than four hours a day.
- H. Facility providing care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity.
- I. Facility operated as a school-age recorded program.

City. The City of Newport, Oregon.

Commission. The City Planning Commission of the City of Newport, Oregon.

Community Development Director. The City of Newport Community Development Director/Planning Director or designate.

Conditional Use. A use that may be permitted depending upon the individual circumstances. A conditional use permit will not be issued or shall be so conditioned so that neither the public nor neighboring property owners are unduly affected in an adverse way.

Condominiums. A form of ownership where buildings are subdivided into individual units such that each owner only owns his own unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party walls, corridors, and services other than those within independent units (such as electrical, water, gas, sewer, etc.) become joint responsibilities of all the owners as tenants in common.

Cottage cluster. means a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard. Cottage cluster may also be known as “cluster housing,” “cottage housing,” “bungalow court,” “cottage court,” or “pocket neighborhood.”

Cottage cluster project. means a tract with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

Court. An open, unoccupied space on the same lot with the building or buildings and which is bounded on two or more sides by such building or buildings. An open, unoccupied space bounded by one "L" shaped building, which is not a court but a yard.

Design Guidelines. The discretionary design oriented approval 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.

Design Review. The process of applying design guidelines and/or design standards

Design Standards. Clear and objective design oriented approval criteria with which a project must demonstrate compliance. If a project does not meet the design standards, then the project is reviewed under the design guidelines.

Dwelling, Cottage. means an individual dwelling unit that is part of a cottage cluster.

Dwelling, Duplex; or Dwelling, Two-Family. A building containing two attached dwelling units on one lot or parcel. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an Accessory Dwelling Unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

Dwelling, Multi-Family. A building containing three or more attached dwelling units on one lot or parcel.

Dwelling, Single-Family. A detached building containing one dwelling unit.

Dwelling, Townhouse. means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on a single lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a “rowhouse,” “attached house,” or “common-wall house.”

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Family Child Care Home. means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280(2) or is registered under ORS 329A.330.

Family or Household. An individual or two or more persons living together in a dwelling unit.

Family Recreation Facility. A facility designed for active indoor recreation, including a billiard parlor, dance hall, bowling alley, skating rink, teen club or youth center, arcade, indoor swimming pool, indoor tennis court, miniature golf course, and similar uses. No alcoholic beverages may be consumed or sold, nor may gambling occur in a family recreation facility. A supervisory employee must be present at all times, and public restrooms must be provided.

Footprint. The total square footage of the area within the perimeter of the building as measured around the foundation of a building.

Garage, Private. An accessory building detached or part of the main building including a carport which is intended for and used for storing the privately owned motor vehicles, boats, and trailers of the persons resident upon the premises and in which no business, service, or industry related to motor vehicles is carried on.

Garage, Public. A "public or commercial garage" is a building or part of a building or space used for business or commercial purposes used principally for the repair, equipping, and care of motor vehicles and where such vehicles may be parked or stored.

Geologic Hazards. A geologic condition that is a potential danger to life and property which includes but is not limited to earthquakes, landslides, erosion, expansive soils, fault displacement, and subsidence.

Grade. The average of the finished exterior ground level at the corners of each architectural elevation of the building. In case an architectural elevation is parallel to and within five feet of a sidewalk or on top of a retaining structure, the grade for that one architectural elevation shall be measured at the sidewalk or base of the retaining structure.

Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Height of Building. The vertical distance from the "grade" to the highest point of the roof.

Home share. A short-term rental, other than a bed and breakfast facility, where a portion of a dwelling unit is rented while the homeowner is present. For the purposes of this definition, “present” means the homeowner is staying in the dwelling overnight for the duration of the rental.

Home Occupation. An accessory use of a dwelling unit for gainful employment involving provision or sale of goods and/or services and the creation of handicrafts and artwork and is incidental to the primary use of the building or residence.

Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.

Hostel. A single building containing a single dwelling unit where four or more (but not more than 20) unrelated individuals may live for not more than 30 continuous days. A hostel may be occupied and managed by a family in addition to the 4-20 persons renting facilities. If there are more than 20 persons at maximum occupancy, such a facility shall be considered a hotel or motel for the purposes of this Ordinance except for parking requirements. Hostels shall meet the requirements of the Uniform Building Code for maximum occupancy.

Hotel (transient). A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), with or without cooking facilities, and where 50 percent or more of the lodging rooms are for rent to guests for a continuous period of less than 30 days. Short-term rental use of a single family dwelling or individual dwelling unit is not a hotel use.*

Hotel (non-transient). A building in which lodging is provided for guests for compensation and contains a common entrance and where lodging rooms do not have an entrance opening directly to the outdoors (except for emergencies), where cooking facilities are provided within individual lodging rooms, or for groups of lodging

rooms, and where 50 percent or more of the lodging rooms are offered for rent to guests for a continuous period of 30 days or longer. Short-term rental use of a single family dwelling or individual dwelling unit is not a hotel use.*

Junk Yard. Any property used by a business that deals in buying and selling old motor vehicles, old motor vehicle parts, abandoned automobiles, or machinery or parts thereof, or appliances or parts thereof, or iron, paper, or waste of discarded material.

Kennel. A lot or building in which four or more dogs, cats, or animals at least four months of age are kept. Any building containing more than one dwelling unit shall be considered a lot or building for the purposes of this item.

Land Division. A subdivision or partition.

Land Use Action. The procedure by which the City of Newport makes a land use decision.

Land Use Decision. In general, a final decision or determination that concerns the adoption, amendment, or application of the statewide planning goals, a comprehensive plan provision, or a land use regulation. Specifically, a city decision as defined by ORS 197.015(10).

Laundromat. An establishment providing washing, drying, or dry cleaning machines on the premises for rental use to the general public for family laundering or dry cleaning purposes.

Loading Space. An off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading

Lot. A lawfully established unit of land. In the context of a land division, a lot is a unit of land created by a subdivision of land.

Lot Area. The total horizontal area within the lot lines of a lot.

Lot Corner. A lot ~~with~~ at least two adjacent sides ~~of which~~ ~~but that abut~~ streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135 degrees.

Lot, Corner, Reversed. A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear where the lot to the rear is of the prevailing yard pattern.

Lot Frontage. The front of a lot is the portion nearest the street. In no case shall the frontage (or front lot line) be less than 25 feet.

Lot, Interior. A lot other than a corner lot.

Lot, Through. A lot having frontage on two parallel or approximate parallel streets other than alleys.

Lot Line. The property line abounding a lot. Where the lot line extends below ordinary high tide, ORS 390.615 shall apply. Where the lot line extends below ordinary high water, ORS 274.025 shall apply.

Lot Line, Front. In the case of an interior lot, a straight line joining the foremost points of the side lot lines. The foremost points of the side lot, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding, and, in the case of a corner lot, all sides of a lot adjacent to streets other than alleys shall be considered frontage.

Lot Line, Rear. In the case of an interior lot, a straight line joining the rearmost points of the side lot lines, and in the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line, and in the case of through lots, there will be no rear lot line. All corner lots shall have at least a 10 foot rear yard.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot Measurements.

- A. Depth of a lot is the mean horizontal distance between the front lot line and rear lot line of a lot. In the case of a corner lot, the lot depth is the greater of the mean horizontal distances between front lot lines and the respective lot lines opposite each other.
- B. Width of a lot is the mean horizontal distance between side lot lines (of side and front lot lines for corner lots) perpendicular to the lot depth.

Lumber and Other Building Materials Dealer.

Establishment engaged in selling lumber and a general line of building materials to the general public (see State Industrial Code 5211).

Lumber Yard. A place of storage in connection with the wholesaling of lumber by a manufacturer such as a planing mill, a sawmill, or a producer of mill work (see S.I.C. 2411, 2421, 2426, 2429, and 2431).

Manufactured Dwelling. A manufactured home, mobile home, or residential trailer.

Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located on a lot or parcel of land the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

Manufactured Home. A structure constructed after June 15, 1976, for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

Mini-Storage. Individual small warehouse units.

Ministerial Action. A decision that does not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. The review of a

ministerial action requires no notice to any party other than the applicant and agencies that the Community Development Director, or designee, determines may be affected by the decision. A ministerial action does not result in a land use decision, as defined in ORS 197.015(10).

Mobile Food Unit. Any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer.

Mobile Food Unit Pod. Four or more mobile food units on the same lot, parcel, or tract.

Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law at the time of construction.

Motel (transient). A building or group of buildings in which lodging is provided for guests for compensation, containing lodging rooms with separate entrances from the building exterior, with or without cooking facilities, and where 50 percent or more of the lodging rooms are for rent to guests for a continuous period of less than 30 days. Short-term rental use of a single family dwelling or individual dwelling unit is not a motel use.*

Motel (non-transient). A building or group of buildings in which lodging is provided for guests for compensation, containing lodging rooms with separate entrances from the building exterior, where cooking facilities are provided within individual lodging rooms, or for groups of lodging rooms, offered for rent to guests for a continuous period of 30 days or longer. Short-term rental use of a single family dwelling or individual dwelling unit is not a motel use.*

Nonconforming Lot. A lot legally existing on the effective date of this Ordinance that does not meet the minimum area requirement of the district in which the lot is located.

Nonconforming Structure or Use. A legally established structure or use in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the regulations of the zoning district in which it is located. A use approved under criteria that have been modified or are no longer in effect is considered nonconforming.

Nursing Home. A nursing home provides 24 hour direct medical, nursing, and other health services. Registered nurses, licensed practical nurses, and nurses' aides provide services prescribed by resident(s) physician(s). A nursing home is for those persons who need health supervision but not hospitalization. The emphasis of this use is on nursing care, but convalescent, restorative physical, occupational, speech, and respiratory therapies are also provided. The level of care may also include specialized nursing services such as specialized nutrition, rehabilitation services and monitoring of unstable conditions. The term nursing home is also synonymous with the terms nursing facility and skilled nursing facility.

Open Porch. A roofed, open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure.

Owner. Means the natural person(s) or legal entity that owns and holds legal or equitable title to the property.

Parcel. Same as definition of "lot." In the context of a land division, a parcel is a unit of land that is created by a partitioning of land.

Parking Lot, Public. An open, off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge, or as an accommodation for clients and customers.

Partition. To divide land into not more than three parcels of land within a calendar year, but does not include:

A. .A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable ordinance; or

C. A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other right-of-way purposes, provided that such road or right-of-way complies with the applicable comprehensive plan and state law. However, any property divided by the sale or grant of property for state highway, county road, city street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

Pedestrian Trail. Pedestrian trails are typically located in parks or natural areas and provide opportunities for both pedestrian circulation and recreation.

Person. ~~Every natural person, firm, partnership, association, or corporation.~~ An individual or entity.

Planned Development. The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by the ordinance.

Plat. The final map or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition.

Prefabricated Structure. A building or subassembly, other than a manufactured dwelling or small home, that has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site, is relocatable, more than eight and one-half feet wide, and designed for use as a single family dwelling.

Primary Structure or Use. A structure or use of chief importance or function on a site. A site may have more than one primary structure or use.

Public Facilities. Sanitary sewer, water, streets (including sidewalks), storm water, and electricity.

Reasonably Direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

Recreational Vehicle (RV). A vehicle with or without motive power that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes and has a gross floor space of not more than 400 square feet in the setup mode.

Recreational Vehicle Park. A place where two or more recreational vehicles are located on a lot or parcel of land, the primary purpose of which is to rent space and related facilities for a charge or fee or to offer space for free in connection with securing the trade or patronage of a person.

Recreational Vehicle Storage. Storage for more than two recreational vehicles. No occupancy allowed.

Replat. The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision. A replat shall not serve to vacate any public street or road.

Replat. Minor. A replat that involves five or fewer lots or any number of lots or parcels totally contained within a city block in the original configuration and that does not involve any public street rights-of-way. A minor replat shall not serve to vacate any public street or road

Residential Care Home. A residential facility, as defined in ORS 443.400, which provides residential care and/or treatment to five or fewer individuals, excluding caregivers, with mental or other developmental disabilities; mental, emotional, or behavioral

disturbances; or alcohol or drug dependence. This definition includes the state definitions of “residential training home” and “residential treatment home.”

Residential Facility. A facility licensed by or under the authority of the Department of Human Services (DHS) as defined in ORS 443.400, which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Required staff persons shall not be counted in the number of facility residents. This definition includes the state definitions of “residential care facility,” “residential training facility,” and “residential treatment facility.”

Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.

Residential Unit. See definition of Dwelling Unit.

Roadway. The portion of a street right-of-way developed for vehicular traffic.

Sale or Transfer. Means any change of ownership during the period of time that a license is valid, whether or not there is consideration, except:

1A. A change of ownership in real property where title is transferred pursuant to a declaration of right of survivorship as recognized in ORS 93.180.

2B. A transfer of ownership in real property to a trust, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity so long as the conveyance does not result in any new individuals possessing titled or equitable interest in the property.

3C. A transfer of ownership between titled interest holders.

- 4D. A transfer of ownership between, or to include, spouses, domestic partners, or children.
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Examples: The following scenarios serve as examples of some, but not all, of the types of transactions that will or will not constitute a sale or transfer as defined in this chapter:

- Title is held by a married couple or domestic partnership at the time the license is obtained. Partner dies and survivor retains license? This would not constitute a sale or transfer (Exception 1).
- An individual owns a parcel subject to a declaration of right-of-survivorship to their children at the time a license is obtained. The individual dies and title is transferred pursuant to that provision? This would not constitute a sale or transfer (Exception 1).
- Married couple possesses title to property at time license is obtained. They later elect to convey property into an irrevocable trust and retain a life estate in the deed? This would not constitute a sale or transfer (Exception 2).
- A corporation consisting of three shareholders owns a parcel at the time a license is obtained. They later convert the corporation to a limited liability company controlled by two of the original three shareholders? This would not constitute a sale or transfer (Exceptions 2. and 3).
- A limited liability company is formed with four individuals possessing ownership interest at the time a license is obtained. A fifth person later obtains an ownership interest in the company? This would constitute a sale or transfer.
- Four tenants in common own a parcel at time license is obtained. An owner sells their 1/4 interest to one of the other existing owners? This would not constitute a sale or transfer (Exception 3.) Alternatively, what if they sell their 1/4 interest

to a new person? That would constitute a sale or transfer.

- Title is held by a married couple at time license is obtained. They later acquire a home equity line of credit to repair the home, which lender secures with a deed of trust. Lender subsequently forecloses after a default under the term(s) of the security agreement? The instrument the lender uses to obtain possessory interest is a sale or transfer.
- Two married couples possess ownership interest in an LLC at the time a license is obtained. One of the couple's divorces and one of the partners drops off the title. Remaining partner remarries and the new spouse is added to the LLC? This is not a sale or transfer (Exception 4).
- Property is held by an individual at time license is obtained. The individual dies and children inherit property (no right of survivorship)? This would not constitute a sale or transfer (Exception 4).
- An individual possesses title to the property at the time a license is obtained. He/she later adds their domestic partner to the title to the property? This would not constitute a sale or transfer (Exception 4).

Setback. The minimum distance required between a specified object, such as a building and another point. Typically, a setback refers to the minimum distance from a building to a specified property line to provide a required yard.

Shared Use Path. Shared use paths provide off-roadway facilities for walking and biking travel. Depending on their location, they can serve both recreational and citywide circulation needs. Shared use path designs vary in surface types and widths.

Short-Term Rental. A dwelling unit, or portion thereof, that is rented to any person for a period of less than thirty (30) consecutive nights.

Small Home. A dwelling that is not more than 400 square feet in size and, if equipped with wheels and tongue or hitch, has had those components removed.

Small ~~wireless~~ Wireless facility Facility means a facility that meets each of the following conditions per 47 C.F.R § 1.6002(I), as may be amended or superseded:

A. The facilities (i) are mounted on structures 50 feet or less in height as measured from adjacent finished ground elevation, including the antennas, or (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or (iii) do not extend existing structures on which they are located to a height of more than 50 feet above the finished ground elevation or by more than 10 percent, whichever is greater; and

B. Each antenna associated with the deployment, excluding associated antenna equipment, is no more than three cubic feet in volume; and

C. All other wireless equipment associated with the structure, including wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume; and

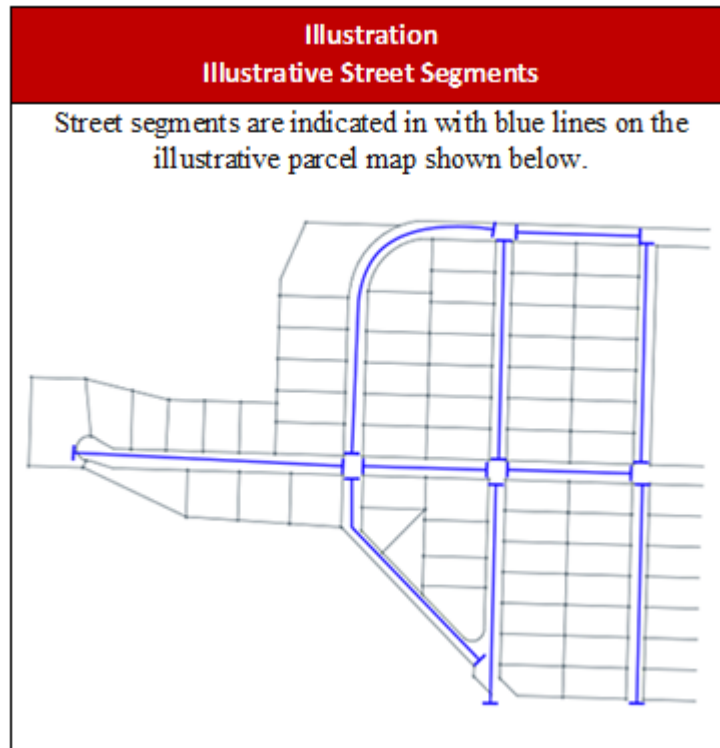
D. The facilities do not result in human exposure to radio frequency in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).***

Street. ~~The term is defined in Section 13.05.005(J) of the Newport Subdivision Ordinance. A public or private way that is created to provide ingress or egress for vehicles to one or more lots, parcels, areas, or tracts of land. The City of Newport Transportation System Plan establishes four functional classifications of streets: Arterial, Major Collector, Neighborhood Collector, and Local Streets.~~

A. Arterial. ~~Arterial streets are primarily intended to serve regional and citywide traffic movement. Arterials provide the primary connection to collector streets. The Arterial streets in Newport are US 101 and US 20.~~

- B. **Half-street.** Partial improvement of an existing street, or a portion of the width of a right of way, usually along the edge of a subdivision or partition, where the remaining portion of the street could be provided in another subdivision or partition, and consisting of at least a sidewalk and curb on one side and at least two travel lanes.
- C. **Local.** All streets not classified as Arterial, Major Collector, or Neighborhood Collector streets are classified as Local Streets. Local Streets provide local access and circulation for traffic, connect neighborhoods, and often function as through routes for pedestrians and bicyclists. Local Streets typically maintain slow vehicle operating speeds to accommodate safe use by all modes.
- D. **Major Collector.** Major Collectors are intended to distribute traffic from Arterials to streets of the same or lower classification.
- E. **Neighborhood Collector.** Neighborhood Collectors distribute traffic from Arterial or Major Collector streets to Local Streets. They are distinguishable from Major Collectors in that they principally serve residential areas. Neighborhood Collector streets typically maintain slow vehicle operating speeds to accommodate safe use by all modes.
- F. **Private Street.** Private Streets are a special type of Local Streets that are used to facilitate access to specific properties or neighborhoods. The City of Newport is not responsible for maintenance on private streets.
- G. **Private Driveway.** A private street that begins at a public right-of-way that is proposed to serve not more than four individual lots/parcels cumulative as the primary vehicular access to those individual lots/parcels.
- H. **Shared Street.** A shared street is a local street that carries fewer than 500 vehicles per day. Shared streets have a single travel lane where all modes of travel share the paved roadway.

- I. Street Segment.** A portion of a local or collector street which is located between two intersections, or between an intersection and the end of a cul-de-sac or dead-end. *See Illustration: Illustrative Street Segments, below.*



Structural Alteration. Any change to the supporting members of a building including foundation, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.

Structure. That which is built or constructed. An edifice or building or any kind of any piece of work artificially built up or composed of parts joined together in some manner and which require location on the ground or which is attached to something having a location on the ground.

Subdivide Land. To divide an area or tract of land into four or more lots within a calendar year.

Subdivision. Either an act of subdividing land or an area or tract of land subdivided as defined in this section.

Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- A. before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either of the following:
 - 1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions; or
 - 2. Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

Temporary Structures. Trailers, mobile food units, prefabricated buildings, or other structures that can readily be moved or which are not attached in a permanent manner to a permanent foundation and are used for residential or business purposes.

Terrace. An open porch without a permanent roof and not over 30 inches in height (not requiring a railing according to the Uniform Building Code).

Town-Hhouse. Buildings that are subdivided into individual units such that each owner owns his own unit and also has entitlement to the parcel of land upon which his unit is located.

Townhouse projectProject. means one or more townhouse structures constructed, or proposed to be constructed, together with the lot, parcel, or tract where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and the commonly owned property, if any.

Tourist. A person or group of people who are traveling for pleasure or are of a transient nature.

Tract. Two or more contiguous lots or parcels under common ownership.

Transportation Facility. A street, pedestrian pathway, bicycle facility, shared use path, or other improvement for the conveyance of people or goods, as identified in the adopted Transportation System Plan.

Use. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

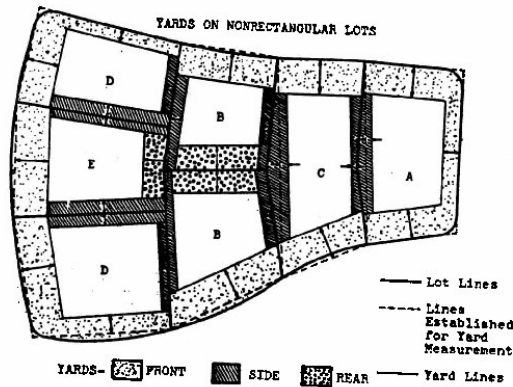
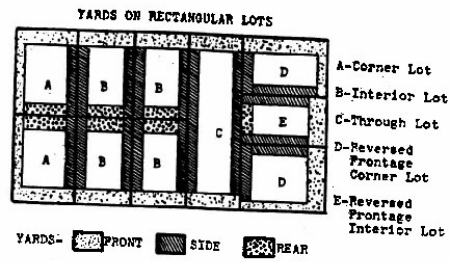
Vacation Rental. A short term rental where the entire dwelling unit is rented.

Walkway. A pedestrian way, including but not limited to a sidewalk, path or accessway, providing access within public right-of-way or on private property.

Wetlands. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Yard. An open space on a lot which is unobstructed by any building from the ground upward, except as otherwise provided in this ordinance. Yard depth is always measured horizontally and perpendicular to the respective lot line.

Yard, Front. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lots. In the case of corner lots, front yards shall be required as shown in Illustration A and in Table A.



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Newport Zoning Ordinance (No. 1308, as amended)

Yard, Rear. A yard extending across the width of the lot between the inner side yard lines, the depth of which is the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the lesser depth second front yard.

Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner lots with normal frontage, there will be only one side yard adjacent to the interior lot. In the case of corner lots with reversed frontage, the yards remaining after the normal front yard and lesser depth second front yard have been established shall be considered to be side yards. The accompanying Illustration A indicates the location of yards on rectangular and non-rectangular lots.

Staff: Definitions from Title XIII, Land Divisions, have been added to this section since the land division regulations are being consolidated into Title XIV to streamline the regulations and eliminate duplicative procedural requirements. Those definitions include "Land Division," "Lot," "Parcel," "Partition," "Person," "Plat," "Replat," "Replat (Minor)," "Roadway," "Street," "Subdivide Land," and "Subdivision." Definitions for "Alley" and "Street" are revised, and "Accessway," "Pedestrian Trail," "Shared Use Path," "Reasonably Direct," "Roadway," "Transportation Facility," and "Walkway" have been added, to implement the updated Transportation System Plan, as recommended in Reference 14, of Tech Memo #12, prepared by Angelo Planning Group, and dated 12/8/21.

CHAPTER 14.03 ZONING DISTRICTS

14.03.010 Purpose.

It is the intent and purpose of this section to establish zoning districts for the City of Newport and delineate uses for each district. Each zoning district is intended to service a general land use category that has common location, development, and use characteristics. The quantity and availability of lands within each zoning district shall be based on the community's need as determined by the Comprehensive Plan. Establishing the zoning districts also implements the General Land Use Plan Map as set forth in the Comprehensive Plan.

14.03.020 Establishment of Zoning Districts.

This section separates the City of Newport into four (4) basic classifications and thirteen (13) use districts as follows:

A. Districts zoned for residential use(s).

1. R-1 Low Density Single-Family Residential.
2. R-2 Medium Density Single-Family Residential.
3. R-3 Medium Density Multi-Family Residential.
4. R-4 High Density Multi-Family Residential.

B. Districts zoned for commercial use(s).

1. C-1 Retail and Service Commercial.
2. C-2 Tourist Commercial.
3. C-3 Heavy Commercial.

C. Districts zoned for industrial use(s).

1. I-1 Light Industrial.
2. I-2 Medium Industrial.
3. I-3 Heavy Industrial.
4. W-1 Water Dependent.

5. W-2 Water Related.

D. Districts zoned for public use(s).

1. P-1 Public Structures.
2. P-2 Public Parks.
3. P-3 Public Open Space.

14.03.030 City of Newport Zoning Map.

The zoning districts established by this section are officially identified on the map entitled "City of Newport Zoning Map," by reference incorporated herein. Zoning district boundaries, as shown on the official map, shall be construed as follows:

- A. City limit lines;
- B. Platted lot lines or other property lines as shown on the Lincoln County Assessor's plat maps;
- C. The centerline of streets, railroad tracks, or other public transportation routes;
- D. The centerline of streams or other watercourses as measured at Mean Low Water. In the event of a natural change in location of the centerline of such watercourse, then the zoning district boundary shall be construed to moving with the channel centerline; and
- E. The Mean Higher High Tide Line.

14.03.040 Intent of Zoning Districts.

Each zoning district is intended to serve a general land use category that has common locations, development, and service characteristics. The following sections specify the intent of each zoning district:

R-1/"Low Density Single-Family Residential." The intent of the R-1 district is to provide for large lot residential development. This district should also be applied where

environmental constraints such as topography, soils, geology, or flooding restrict the development potential of the land.

R-2/"Medium Density Single-Family Residential." The intent of this district is to provide for low density, smaller lot size residential development. It is also the ambition of this district to serve as a transitional area between the low density residential district and higher density residential districts.

R-3/"Medium Density Multi-Family Residential." This district is intended for medium density multi-family residential development. It is planned for areas that are able to accommodate the development of apartments. New R-3 zones should be near major streets, on relatively flat land, and near community or neighborhood activity centers.

R-4/"High Density Multi-Family Residential." This district is intended to provide for high density multi-family residential and some limited commercial development. New R-4 zones should be on major streets, on relatively flat land, and near commercial centers.

C-1/"Retail and Service Commercial." The intent of the C-1 district is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Manufacturing, processing, repair, storage, or warehousing is prohibited unless such activity is clearly incidental to the business and occupies less than 50% of the floor area.

C-2/"Tourist Commercial." The intent of this zone is to provide for tourist needs, as well as for the entertainment needs of permanent residents.

C-3/"Heavy Commercial." The intent of this zone is to provide for commercial uses that are frequently incompatible with retail and service commercial uses. This zone is also intended to provide uses that utilize more than 50% of the floor area for storage, repair, or compounding of products but do not constitute a nuisance because of noise, dust, vibration or fumes.

I-1/"Light Industrial." The intent of this zone is to provide for commercial and industrial uses that can be located near residential or commercial zones. Uses that are associated with excessive noise, dust, vibration, or fumes shall be prohibited.

I-2/"Medium Industrial." The intent of this zone is to provide areas suitable for industrial activities, including manufacturing, fabricating, processing, packing, storage, repairing, and wholesaling. This classification should be applied to industrial areas having good access to transportation facilities and not near residential zones.

I-3/"Heavy Industrial." The intent of this zone is to provide for industrial uses that involve production and processing activities generating noise, vibration, dust, and fumes. Typically, this zone requires good access to transportation, large lots, and segregation from other uses due to nuisances.

W-1/"Water-Dependent." The intent of the W-1 district is to protect areas of the Yaquina Bay Shorelands, as identified in the Newport Comprehensive Plan, for water-dependent uses. For purposes of this section, a water-dependent use is one which needs contact with or use of the water for water-borne transportation, recreation, energy production, or water supply. All uses in a W-1 district shall comply with the following standards:

- A. Existing water-dependent uses or future water-dependent uses anticipated by the Comprehensive Plan shall not be preempted or restricted by non-water-dependent uses. In determining whether or not a use preempts or restricts a water-dependent use, the following shall be considered:
 - 1. Water-related uses accessory to and in conjunction with water-dependent uses.
 - 2. Temporary or mobile uses such as parking lots or temporary storage areas.

3. Incidental and accessory non-water-dependent uses sharing an existing structure with a water-dependent use.
- B. Applicable policies in the Yaquina Bay Estuary and Yaquina Bay Shoreland sections of the Comprehensive Plan shall be followed.
- C. In determining whether a conditional use should be allowed, consideration shall be given to whether the site or portion thereof is within an area designated as especially suited for water-dependent or water-related uses in the Comprehensive Plan. If the property is within that area, then the site shall be protected for water-dependent and water-related recreational, commercial, and industrial uses.

W-2/"Water-Related." The intent of the W-2 district is to provide areas within and adjacent to the Yaquina Bay Shorelands for water-dependent, water-related, and other uses that are compatible or in conjunction with water-dependent and water-related uses. In determining whether or not a use is water-related, the following shall be uses:

- A. The proposed use is directly associated with a water-dependent use by supplying materials or services, or by using projects of water-dependent uses; and
- B. Location away from the water would result in a public loss in the quality of goods or services after considering economic, social, environmental, and energy effects.

All conditional uses in a W-2 district shall also comply with the following standard:

In areas considered to be historic, unique, or scenic, the proposed use shall be designed to maintain or enhance the historic, unique, or scenic quality.

14.03.050 Residential Uses.

The following list sets forth the uses allowed within the residential land use classification. Uses not identified herein are not allowed. Short-term rentals are permitted

uses in the City of Newport's R-1, R-2, R-3 and R-4 zone districts subject to requirements of [Section 14.25](#).

"P" = Permitted uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		R-1	R-2	R-3	R-4
A.	Residential				
	1. Single-Family	P	P	P	P
	2. Two-family	P	P	P	P
	3. Townhouse	X	P	P	P
	4. Cottage Cluster	X	X	P	P
	5. Multi-family	X	X	P	P
	6. Manufactured Homes ¹	P	P	P	P
	7. Manufactured Dwelling Park	X	P	P	P
B.	Accessory Dwelling Units	P	P	P	P
	(B. was added on the adoption of Ordinance No 2055 on June 17, 2013; and subsequent sections relettered accordingly. Effective July 17, 2013.)				
C.	Accessory Uses	P	P	P	P
D.	Home Occupations	P	P	P	P
E.	Community Services				
	1. Parks	P	P	P	P
	2. Publicly Owned Recreation Facilities	C	C	C	C
	3. Libraries	C	C	C	C
	4. Utility Substations	C	C	C	C
	5. Public or Private Schools	C	C	C	P
	6. Family Child Care Home	P	P	P	P
	7. Child Care Center	C	C	C	C
	8. Religious Institutions/Places of Worship	C	C	C	C
F.	Residential Care Homes	P	P	P	P
G.	Nursing Homes	X	X	C	P
H.	Motels and Hotels ³	X	X	X	C
I.	Professional Offices	X	X	X	C
J.	Rooming and Boarding Houses	X	X	C	P
K.	Beauty and Barber Shops	X	X	X	C
L.	Colleges and Universities	C	C	C	C
M.	Hospitals	X	X	X	P
N.	Membership Organizations	X	X	X	p
O.	Museums	X	X	X	P
P.	Condominiums ²	X	P	P	P
Q.	Hostels	X	X	X	C
R.	Golf Courses	C	C	C	X
S.	Recreational Vehicle Parks	X	X	X	C
T.	Necessary Public Utilities and Public Service	C	C	C	C

	Uses or Structures				
U.	Residential Facility*	X	X	P	P
V.	Movies Theaters**	X	X	X	C
W.	Assisted Living Facilities***	X	C	P	P
X.	Bicycle Shop****	X	X	X	C
Y.	Short-Term Rentals (subject to requirements of Chapter 14.25)	P	P	P	P
Z.	<u>Transportation Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

¹ Manufactured homes may be located on lots, parcels or tracts outside of a manufactured dwelling park subject to the provisions listed in NMC 14.06.020.

² Condominiums are a form of ownership allowed in all zones within dwelling types otherwise permitted pursuant to subsection (A).

³ Hotels/motel units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone described in NMC Chapter 14.4650.

Staff: Adds transportation facilities as an outright use in the City's residential zones and picks up chapter renumbering. Transportation facilities had been previously interpreted as accessory uses. This change implements the updated Transportation System Plan, as recommended in Reference 1, of Tech Memo #12, prepared by Angelo Planning Group, and dated 12/8/21.

14.03.060 Commercial and Industrial Districts.

The uses allowed within each commercial and industrial zoning district are classified into use categories on the basis of common functional, product, or physical characteristics.

A. Application of Use Categories. Uses are to be assigned to the category whose "Characteristics" most closely describe the nature of the primary use. Developments may have more than one primary use. "Use Examples" are provided for each use category. The names of uses on the list are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description on the Retail Sales and Service category.

B. Interpretation. When a use's category is not clearly identifiable, the Community Development Director shall determine the applicable use category under a Type I decision-making process as provided by [Section 14.52](#). The following factors are to be considered to determine what use category the use is in, and whether or not the activities constitute a primary use.

1. The description of the activity(ies) in relationship the characteristics of each use category;
2. The relative amount of site or floor space and equipment devoted to the activity;
3. Relative amount of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees for each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would function independently of other activities on the site;

C. Commercial Use Categories

1. Office

- a. Characteristics. Office uses are characterized by activities conducted in an office setting and generally focusing on business, government,

professional, medical, or financial services. Traffic is primarily from employees with limited customer interactions.

- b. Examples. Examples include financial businesses such as lenders, brokerage houses, bank headquarters; data processing; headquarters for professional service firms (lawyers, accountants, engineers, architects, etc.), sales offices; government offices; public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- c. Exceptions.
 - i. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
 - ii. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.

2. Retail Sales and Service

- a. Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- b. Examples. Examples include uses from the four subgroups listed below:
 - i. Sales-oriented, general retail: Stores selling, leasing, or renting consumer, home, and business goods including art,

art supplies, bicycles, books, clothing, dry goods, electronic equipment, fabric, fuel, gifts, groceries, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales. Sales oriented general retail includes the service but not repair of vehicles.

- ii. Sales-oriented, bulk retail: Stores selling large consumer home and business goods, including appliances, furniture, hardware, home improvements, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
- iii. Personal service-oriented: Branch banks; urgency medical care; Laundromats; photographic studios; photocopy and blueprint services; printing, publishing and lithography; hair, tanning, and personal care services; tax preparers, accountants, engineers, architects, real estate agents, legal, financial services; art studios; art, dance, music, martial arts, and other recreational or cultural classes/schools; hotels (non-transient); motels (non-transient); taxidermists; mortuaries; veterinarians; kennels limited to boarding and training with no breeding; and animal grooming.
- iv. Entertainment-oriented: Restaurants (sit-down and drive through); cafes; delicatessens; taverns and bars; hotels (transient), motels (transient), recreational vehicles, and other temporary lodging with an average length of stay less than 30 days; athletic, exercise and health clubs or gyms; bowling alleys, skating rinks, game arcades; pool halls; dance halls, studios, and schools; theaters; indoor firing ranges, miniature golf facilities, golf courses, and driving ranges.

- v. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.
- c. Exceptions.
 - i. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
 - ii. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use, is classified as Industrial Service.
 - iii. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.
 - iv. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
 - v. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales and Service.
 - vi. Camping for a charge or fee or to secure the trade or patronage of a person is limited to Recreation Vehicle Parks or public zoned property where identified in a city or state parks master plan.
 - vii. Recreational Vehicle Parks are subject to the standards set forth in Section 14.06.060.

viii. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as a Recreational Vehicle Park.

3. Major Event Entertainment

- a. Characteristics. Major Event Entertainment uses are characterized by spectator or participatory entertainment and recreational activities, either indoors or outdoors, that draw large numbers of people to specific events or shows.
- b. Examples. Examples include fairgrounds, sports complexes, ball fields, exhibition and meeting areas, coliseums or stadiums, equestrian centers and animal arenas, outdoor amphitheaters and theme or water parks.
- c. Exceptions.
 - i. Exhibition and meeting areas with less than 20,000 square feet of total event area are classified as Sales Oriented Retail Sales or Service.
 - ii. Banquet halls that are part of hotels or restaurants are accessory to those uses.

4. Self-Service Storage

- a. Characteristics. Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- b. Examples. Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini warehouses.
- c. Exceptions. A transfer and storage business where there are no individual storage areas or

where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

5. Vehicle Repair

- a. Characteristics. Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- b. Examples. Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- c. Exceptions.
 - i. Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

6. Parking Facility

- a. Characteristics. Parking facilities provide parking for vehicles as the primary use. The Parking Facility use category does not include parking that is required for a primary use. A fee may or may not be charged to park at a facility.
- b. Examples. Short and long term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and park-and-ride lots.
- c. Exceptions.
 - i. Required parking that is accessory to a use is not considered a Parking Facility.

D. Industrial Use Categories

1. Contractors and Industrial Service

- a. Characteristics. Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- b. Examples. Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.
- c. Exceptions.
 - i. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication or similar work is not carried on at the site.
 - ii. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

2. Manufacturing and Production

- a. Characteristics. Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Manufacturing and production activities within heavy commercial or light industrial areas are those that do not produce excessive noise, dust, vibration, or fumes.
- b. Examples. Examples include uses from the two subgroups listed below:
 - i. Light Manufacturing: Industrial uses that do not generate excessive noise, dust, vibration or fumes, such that they can be located near residential and commercial zones without creating nuisance impacts. Uses include processing of food and related products where the materials and processing activities are wholly contained within a structure, such as bakery products, canned and preserved fruits and vegetables, sugar and confectionary products, and beverages; catering establishments; breweries, distilleries, and wineries; manufacture of apparel or other fabricated products made from textiles, leather or similar materials; woodworking, including furniture and cabinet making; fabrication of metal products and fixtures; manufacture or assembly of machinery, equipment, or instruments, including industrial, commercial, and transportation equipment, household items, precision

items, photographic, medical and optical goods, artwork, jewelry, and toys; manufacture of glass, glassware, and pressed or blown glass; pottery and related products; printing, publishing and lithography production; sign making; and movie production facilities.

- ii. Heavy Manufacturing: Industrial uses that should not be located near residential areas due to noise, dust, vibration or fumes that may be generated by the activities. Uses include processing of food and related products where some portion of the materials are stored or processed outdoors, such as dairies, slaughter houses, or feed lots; leather tanning and finishing; weaving or production of textiles; lumber mills, pulp and paper mills, and other wood products manufacturing; production of chemicals, rubber, structural clay, concrete, gypsum, plaster, bone, plastic, or stone products; primary metal industries including blast furnaces, foundries, smelting, and rolling and finishing of metal products; production and refinement of fossil fuels; concrete batching; and asphalt mixing; and manufacturing of prefabricated structures, including mobile homes.

c. Exceptions.

- i. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.
- ii. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

3. Warehouse, Freight Movement, and Distribution

- a. Characteristics. Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves

or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

b. Examples. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

c. Exceptions.

i. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste and Recycling Related uses.

ii. Mini-warehouses are classified as Self-Service Storage uses.

5. Waste and Recycling Related

a. Characteristics. Uses that receive solid or liquid wastes from others for disposal on the site or transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the decomposition of organic material. Waste related uses also include uses that receive hazardous wastes from others.

b. Examples. Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous waste collection sites.

c. Exceptions.

- i. Disposal of clean fill, as defined in OAR 340-093-0030, is considered fill, not a Waste and Recycling Related use.
- ii. Sewer pipes that serve a development are considered a Basic Utility.

6. Wholesale Sales

- a. Characteristics. Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
- b. Examples. Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.
- c. Exceptions.
 - i. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
 - ii. Firms that engage in sales on a membership basis are classified as consideration of characteristics of the use.
 - iii. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

1. Mining

- a. Characteristics. Include mining or extraction of mineral or aggregate resources from the ground for off-site use.
- b. Examples. Examples include sand and gravel extraction, excavation of rock, and mining of non-metallic minerals.
- c. Exceptions.
 - i. All other forms of mining or extraction of earth materials are prohibited.

E. Institutional and Civic Use Categories

1. Basic Utilities ~~and Roads~~

- a. Characteristics. Basic utilities ~~and Roads~~ are infrastructure services which need to be located in or near the area where the service is provided. Basic ~~Utility and Road~~utility uses generally do not have regular employees at the site. Services may be public or privately provided.
- b. Examples. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control devices. Water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; ~~and~~ suspended cable transportation systems; bus stops or turnarounds; local, collector and arterial roadways; and highway maintenance.
- c. Exceptions.
 - i. Services where people are generally present, ~~other than bus stops or turnarounds,~~ are classified as Community Services or Offices.

ii. Utility offices where employees or customers are generally present are classified as Offices.

~~iii. Bus barns are classified as Warehouse and freight movement.~~

~~iv.iii.~~ Public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Utility Corridors.

2. Utility, ~~Road and Transit~~ Corridors

a. Characteristics. Utility, ~~Road and Transit~~ Corridors include public or private passageways, including easements for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or similar services on a regional level. ~~This category includes new or expanded regional roadways, and tracks and lines for the movement of trains.~~

b. Examples. Examples include ~~highways, rail trunk and feeder lines;~~ regional electrical transmission lines; and regional gas and oil pipelines.

c. Exceptions.

i. ~~Highways, rail lines and u~~Utility corridors that are located within motor vehicle rights-of-way are not included.

3. Community Services

a. Characteristics. Public, non-profit or charitable organizations that provide local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. Services are

ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join. Uses may include shelter or housing for periods of less than one month when operated by a public or non-profit agency. Uses may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

b. Examples. Examples include libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, police stations, religious institutions/places of worship, fire and ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, soup kitchens, and surplus food distribution centers.

c. Exceptions.

i. Private lodges, clubs, and private commercial athletic or health clubs are classified as Entertainment and Recreation. Commercial museums (such as a wax museum) are in Retail Sales and Service.

4. Child Care Center

a. Characteristics. Child Care Center use is a child care facility, other than a family child care home, that is certified under ORS 329A.280. Such facilities provide day or evening care to children under the age of 13 outside of the children's homes, with or without compensation. Child Care Centers may also provide care to children under 18 years of age who have special needs or disabilities and require a level of care that is above normal for the child's age.

b. Examples. Pre-schools, nursery schools, latch key programs, and residential facilities.

c. Exceptions.

- i. Child Care Center use does not include care given by a “Family Child Care Home” that is caring for not more than 16 children and is certified under ORS 329A.280(2) or is registered under ORS 329A.330. Family Child Care Homes are located in a dwelling and are permitted on residential and commercial property developed with a dwelling.

5. Educational Institutions

- a. Characteristics. Educational Institutions provide educational instruction to students. This category includes schools, colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree, and public and private schools at the primary, elementary, middle, junior, high, or high school level that provide state-mandated basic education. This category also includes trade schools and vocational schools that provide on-site training of trade skills.

- b. Examples. Types of uses include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, seminaries, public and private daytime schools, boarding schools, military academies, and trade/vocational schools.

c. Exceptions.

- i. Preschools are classified as Daycare facilities.

6. Hospitals

- a. Characteristics. Hospitals provide medical and surgical diagnosis and care to patients and offer overnight care. Hospitals tend to be on multiple blocks or in campus settings.

b. Examples. Examples include hospitals and medical complexes that include hospitals or emergency care facilities.

c. Exceptions.

i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are “Residential Facilities” and permitted in R-3 and R-4 zoning districts.

ii. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.

7. Courts, Jails, and Detention Facilities

a. Characteristics. Includes facilities designed to try, detain or incarcerate persons while being processed for arrest or detention by law enforcement. Inmates or detainees are under 24-hour supervision by sworn officers.

b. Examples. Examples include courts, prisons, jails, probation centers, juvenile detention homes.

c. Exceptions.

i. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are “Residential Facilities” and permitted in R-3 and R-4 zoning districts.

ii. Programs that provide transitional living experience for former offenders, such as halfway houses, where sworn officers do not supervise residents, are also “Residential Facilities” and permitted in R-3 and R-4 zoning districts.

8. Communication Facilities

- a. Characteristics. Includes facilities designed to provide signals or messages through the use of electronic and telephone devices. Includes all equipment, machinery, structures (e.g. towers) or supporting elements necessary to produce signals.
- b. Examples. Examples include broadcast towers, communication/cell towers, and point to point microwave towers.
- c. Exceptions.
 - i. Receive only antennae are not included in this category.
 - ii. Radio and television studios are classified in the Office category.
 - iii. Radio Frequency Transmission Facilities that are public safety facilities and small wireless facilities are classified as Basic Utilities. Small wireless facilities shall be subject to design standards as adopted by resolution of the City Council.

9. Transportation Facilities

- a. Characteristics. Includes facilities designed to convey, or facilitate the conveyance of, people or goods from one location to another.
- b. Examples. Examples include streets, pedestrian pathways, bicycle facilities, shared use paths, trails, transit stops and rail lines.

Staff: This section defines use categories for commercial and industrial zone districts. Subcategories for “Basic Utilities and Roads” and “Utility, Road and Transit Corridors,” under Institutional and Civic Use categories treated transportation facilities and utilities in a similar manner. The subsections are being amended to remove references to transportation facilities, and a new transportation facilities subsection is being created. This will allow the City to regulate transportation facilities separate from utility uses.

1. Basic Utilities and Roads

14.03.070 Commercial and Industrial Uses.

The following list sets forth the uses allowed within the commercial and industrial land use categories.

"P" = Permitted uses.

"C" = Conditional uses; allowed only after the issuance of a conditional use permit.

"X" = Not allowed.

		C-1	C-2 ¹	C-3	I-1	I-2	I-3
1.	Office	P	X	P	P	P	X
2.	Retails Sales and Service						
	a. Sales-oriented, general retail	P	P	P	P	P	C
	b. Sales-oriented, bulk retail	C	X	P	P	P	C
	c. Personal Services	P	C	P	P	C	X
	d. Entertainment	P	P ²	P	P	C	X
	e. Repair-oriented	P	X	P	P	P	X
3.	Major Event Entertainment	C	C	P	P	C	X
4.	Vehicle Repair	X	X	P	P	P	X
5.	Self-Service Storage	X	X	P	P	P	X
6.	Parking Facility	P	P	P	P	P	P
7.	Contractors and Industrial Service	X	X	P	P	P	P
8.	Manufacturing and Production						
	a. Light Manufacturing	X	X	C	P	P	P
	b. Heavy Manufacturing	X	X	X	X	C	P
9.	Warehouse, Freight Movement, & Distribution	X	X	P	P	P	P
10.	Wholesale Sales	X	X	P	P	P	P
11.	Waste and Recycling Related	C	C	C	C	C	C
12.	Basic Utilities and Roads ³	P	P	P	P	P	P
13.	Utility, Road and Transit Corridors	C	C	C	C	C	C
14.	Community Service	P	C	P	P	C	X
15.	Family Child Care Home	P	P	P	X	X	X
16.	Child Care Center	P	P	P	P	P	X
17.	Educational Institutions						
	a. Elementary & Secondary Schools	C	C	C	X	X	X
	b. College & Universities	P	X	P	X	X	X
	c. Trade/Vocational Schools/Other	P	X	P	P	P	P

18.	Hospitals	C	C	C	X	X	X
19.	Courts, Jails, and Detention Facilities	X	X	P	C	X	X
20.	Mining						
	a. Sand & Gravel	X	X	X	X	C	P
	b. Crushed Rock	X	X	X	X	X	P
	c. Non-Metallic Minerals	X	X	X	X	C	P
	d. All Others	X	X	X	X	X	X
21.	Communication Facilities ⁴	P	X	P	P	P	P
22.	Residences on Floors Other than Street Grade	P	P	P	X	X	X
23.	Affordable Housing ⁵	P	P	P	P	X	X
<u>24.</u>	<u>Transportation Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

1. Any new or expanded outright permitted commercial use in the C-2 zone district that exceeds 2,000 square feet of gross floor area. New or expanded uses in excess of 2,000 square feet of gross floor area may be permitted in accordance with the provisions of Chapter 14.34, Conditional Uses. Residential uses within the C-2 zone are subject to special zoning standards as set forth in Section 14.30.100.

2. Recreational Vehicle Parks are prohibited on C-2 zoned property within the Historic Nye Beach Design Review District.

3. Small wireless facilities shall be subject to design standards as adopted by City Council resolution.

4. Communication facilities located on historic buildings or sites, as defined in Section 14.23, shall be subject to conditional use review for compliance with criteria outlined in Sections 14.23 and 14.34.

5. Permitted as outlined in Chapter 14.15 or, in the case of hotels/motels, the units may be converted to affordable housing provided they are outside of the Tsunami Hazard Overlay Zone defined in NMC Chapter 14.4650.

Staff: Added transportation facilities as an outright use in the City's commercial zones and addressed chapter renumbering. Required distinguishing transportation facilities from basic utilities and utility corridors. Transportation facilities had been previously interpreted as accessory uses. This change implements the updated Transportation System Plan, as recommended in Reference 1, of Tech Memo #12, prepared by Angelo Planning Group, and dated 12/8/21.

14.03.080 Water-dependent and Water-related Uses.

The following list sets forth the uses allowed with the water-dependent and water-related land use classifications. Uses not identified herein are not allowed.

"P" = Permitted uses.

"C" = Conditional uses permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		W-1	W-2
1.	Aquaculture	P	P
2.	Boat Rentals, Sport Fishing and Charter Boat Services	P	P
3.	Docks, Wharves, Piers	P	P
4.	Dry Dock, Boat Repair, Marine Service, and Marine Railway Facilities	P	P
5.	Fuel Facilities for Boats or Ships	P	P
6.	Marinas and Port Facilities	P	P
7.	Seafood Processing and Packaging Plants	P	P
8.	Terminal Facilities for Loading and Unloading Ships and Barges	P	P
9.	Marine Research and Education Facilities of Observation, Sampling, Recording, or Experimentation on or Near the Water	P	P
10.	Ice Production and Sales, Refrigeration Repair, and Cold Storage to Serve the Seafood Industry	C	P
11.	Boat Building and Marine Equipment Manufacture	C	P
12.	Parking Lots	C	P
13.	Warehouses	C	P
14.	Uses Allowed in the Adjacent Estuarine Management Unit	C	P
15.	Water-dependent Uses That Meet the Intent of the W-1 District	C	P
16.	Bait, Tackle, and Sporting Goods Stores Specializing in Water-related Merchandise	X	P
17.	Seafood Markets	X	P
18.	Uses Permitted Outright in a C-2 District	X	C
19.	Manufacturing in Conjunction with Uses X C Permitted Outright in a C-2 District	X	C
20.	Offices Not On the Ground Floor of an Existing Building	X	C
21.	Residences on Floors Other than Street Grade	X	C
22.	Transportation Facilities	P	P

Staff: Added transportation facilities as an outright use in the City's water-dependent and water-related zones. Transportation facilities had been previously interpreted as accessory uses. Change recommended in Reference 1, of Tech Memo #12, prepared by Angelo Planning Group, and dated 12/8/21.

14.03.090 Uses in State Park Master Plans.

* Where the W-1 and/or W-2 zones are applied to properties that are owned or managed by the Oregon Parks and Recreation Department within a state park with a master plan that has been approved by the City of Newport, only those uses that are consistent with the city's approval of the master plan are permitted. Such uses are permitted through the applicable development review procedures set forth in this ordinance provided that the uses comply with the design standards in the master plan and with other applicable standards.

14.03.100 Public Uses

. The following list sets forth the uses allowed within the public land use classification. Uses not identified herein are not allowed.

"P" = Permitted Uses.

"C" = Conditional uses; permitted subject to the approval of a conditional use permit.

"X" = Not allowed.

		P-1	P2	P-3
1.	Public Parks	P	P	P
2.	Public Open Space	P	P	P
3.	Public Schools, Colleges, or Universities	P	X	X
4.	Any Building or Structure Erected by a Governmental Entity	P	X	X
5.	Community Buildings	P	X	X
6.	Fairgrounds	P	X	X
7.	Public Cemeteries	P	P	X
8.	Water & Wastewater Treatment Plants	P	X	X
9.	Performing Arts Centers	P	X	X
10.	Visual Arts Centers	P	X	X
11.	Senior Centers	P	X	X
12.	Airport and Accessory Structures	P	X	X
13.	Public Golf Courses	P	P	X
14.	City Halls	P	X	X
15.	County Courthouses	P	X	X
16.	Jails and Juvenile Detention Facilities	P	X	X
17.	City or County Maintenance Facilities	P	X	X
18.	Publicly Owned Recreational Vehicle Parks	C	C	X

19.	Public Museums	P	X	X
20.	Public Restrooms	P	P	X
21.	Recreation Equipment	P	P	X
22.	Post Office	P	X	X
23.	Parking Lots	P	P	X
24.	Public Hospitals	P	X	X
25.	Trails, paths, bike paths, walkways, etc. Transportation Facilities	P	P	P
26.	Water Storage Facilities	P	X	X
27.	Public Libraries	P	X	X
28.	Fire Stations	P	X	X
29.	Police Stations	P	X	X
30.	Accessory Structures for Any of the Above	P	P	P

Staff: Added transportation facilities as an outright use in the City's public zones. Trails, paths and bike paths are described as types of transportation facilities. Transportation facilities had been previously interpreted as accessory uses. Change recommended in Reference 1, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

14.03.110 Uses in State Park Master Plans.

Where the P-1, P-2, and/or P-3 zones are applied to properties that are owned or managed by the Oregon Parks and Recreation Department within a state park with a master plan that has been approved by the City of Newport, only those uses that are consistent with the city's approval of the master plan are permitted. Such uses are permitted through the applicable development review procedures set forth in this ordinance provided that the uses comply with the design standards in the master plan and with other applicable standards.

CHAPTER 14.14 ~~PARKING, AND LOADING, AND ACCESS~~ REQUIREMENTS

14.14.010 Purpose

The purpose of this section is to establish off-street parking and loading requirements, access standards, development standards for off-street parking lots, and to formulate special parking areas for specific areas of the City of Newport. It is also the purpose of this section to implement the Comprehensive Plan, enhance property values, and preserve the health, safety, and welfare of citizens of the City of Newport.

14.14.020 Definitions

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

Access. The point of ingress and egress from a public street to an off-street parking lot or loading and unloading area.

Aisle. Lanes providing access to a parking space.

Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Loading Space. A parking space for the loading and unloading of vehicles over 30 feet in length.

Parking Space. An area for the parking of a vehicle.

Site Plan. A map showing the layout of the building, parking, landscaping, setbacks, and any other pertinent information concerning the development of a site.

Use. Any new building, change of occupancy, or addition to an existing building.

14.14.030 Number of Parking Spaces Required

A. Off-street parking shall be provided and maintained as set forth in this section. Such off-street parking

spaces shall be provided prior to issuance of a final building inspection, certificate of occupancy for a building, or occupancy, whichever occurs first. For any expansion, reconstruction, or change of use, the entire development shall satisfy the requirements of [Section 14.14.050](#), Accessible Parking. Otherwise, for building expansions the additional required parking and access improvements shall be based on the expansion only and for reconstruction or change of type of use, credit shall be given to the old use so that the required parking shall be based on the increase of the new use. Any use requiring any fraction of a space shall provide the entire space. In the case of mixed uses such as a restaurant or gift shop in a hotel, the total requirement shall be the sum of the requirements for the uses computed separately. Required parking shall be available for the parking of operable automobiles of residents, customers, or employees, and shall not be used for the storage of vehicles or materials or for the sale of merchandise. A site plan, drawn to scale, shall accompany a request for a land use or building permit. Such plan shall demonstrate how the parking requirements required by this section are met.

Parking shall be required at the following rate. All calculations shall be based on gross floor area unless otherwise stated.

1.	General Office	1 space/600 sf
2.	Post Office	1 space/250 sf
3.	General Retail (e.g. shopping centers, apparel stores, discount stores, grocery stores, video arcade, etc.)	1 space/300 sf
4.	Bulk Retail (e.g. hardware, garden center, car sales, tire stores, wholesale market, furniture stores, etc.)	1 space/600 sf
5.	Building Materials and Lumber Store	1 space/1,000 sf
6.	Nursery – Wholesale Building	1 space/2,000 sf 1 space/1,000 sf
7.	Eating and Drinking Establishments	1 space/150 sf
8.	Service Station	1 space/pump
9.	Service Station with Convenience Store	1 space/pump + 1 space/ 200 sf of store space
10.	Car Wash	1 space/washing module + 2 spaces
11.	Bank	1 space/300 sf
12.	Waterport/Marine Terminal	20 spaces/berth
13.	General Aviation Airport	1 space/hangar + 1 space/300 sf of

		terminal
14.	Truck Terminal	1 space/berth
15.	Industrial	1.5 spaces
16.	Industrial Park	1.5 spaces/5,000 sf
17.	Warehouse	1 space/2,000 sf
18.	Mini-Warehouse	1 space/10 storage units
19.	Single-Family Detached Residence	2 spaces/dwelling
20.	Duplex	1 space/dwelling
21.	Apartment	1 space/unit for first four units + 1.5 spaces/unit for each Additional unit
22.	Condominium (Residential)	1.5 spaces/unit
23.	Townhouse	1.5 spaces/unit
24.	Cottage Cluster	1 space/unit
25.	Elderly Housing Project	0.8 space/unit if over 16 dwelling units
26.	Congregate Care/Nursing Home	1 space/1,000 sq. ft.
27.	Hotel/Motel	1 space/room + 1 space for the manager (if the hotel/motel contains other uses, the other uses shall be calculated separately)
28.	Park	2 spaces/acre
29.	Athletic Field	20 spaces/acre
30.	Recreational Vehicle Park	1 space/RV space + 1 space/10 RV spaces
31.	Marina	1 space/5 slips or berths
32.	Golf Course	4 spaces/hole
33.	Theater	1 space/4 seats
34.	Bowling alley	4 spaces/alley
35.	Elementary/Middle School	1.6 spaces/classroom
36.	High School	4.5 spaces/classroom
37.	Community College	10 spaces/classroom
38.	Religious/Fraternal Organization	1 space/4 seats in the main auditorium
39.	Day Care Facility	1 space/4 persons of license occupancy
40.	Hospital	1 space/bed
41.	Assembly Occupancy	1 space/8 occupants (based on 1 occupant/15 sf of exposition/meeting/assembly room conference use not elsewhere specified)

14.14.040 Parking Requirements for Uses Not Specified

The parking space requirements of buildings and uses not set forth above shall be determined by the Planning Director or designate. Such determination shall be based upon requirements for the most comparable building or use specified in [Section 14.14.030](#) or a separate parking demand analysis prepared by the applicant and subject to a Type I decision making procedure as provided in [Section 14.52](#), Procedural Requirements.

14.14.050 Accessible and Electric Vehicle Parking

Parking areas shall meet all applicable accessible parking and electric vehicle charging infrastructure requirements of the Oregon Structural Specialty Code to ensure adequate access for disabled persons, and sufficient electric vehicle parking infrastructure for future users.

Staff: Unlike other parking standards, accessible and electric vehicle requirements are regulated in the State of Oregon Structural Specialty Code (OSSC). Electric vehicle standards are new, being added with HB 2180 (2021). The City adopts the OSSC by reference, and it is amended every couple of years. This cross-reference is helpful in informing applicants of the requirements.

14.14.060 Compact Spaces

For parking lots of four five vehicles or more, 40% of the spaces may be compact spaces, as defined in Section 14.14.090(A) measuring 7.5 feet wide by 15 feet long. Each compact space must be marked with the word "Compacts" in letters that are at least six inches high.

Staff: Revised per Reference 8, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Compact measurement no longer addressed in NMC 14.14.090(A). The 40% allowance works for five parking spaces not four.

14.14.070 Bicycle Parking

Bicycle parking facilities shall be provided as part of new multi-family residential developments of four five units or more; —and— new retail, office, and institutional developments; and park-and-ride lots and transit transfer stations.

A. The required minimum number of bicycle parking spaces is as follows: rounding up to the nearest whole number:

Parking Spaces Required	Bike Spaces Required
1 to 4 ^a	<u>01</u>

5 to 25	1
26 to 50	2
51 to 100	3
Over 100	1/ 50 25

a. Residential developments less than 5 units are exempt from bicycle parking requirements.

- B. Bicycle parking for multiple uses (such as commercial shopping centers) may be clustered in one or several locations but must meet all other requirements for bicycle parking.
- C. Each required bicycle parking space shall be at least two and a half by six feet. An access aisle at least five feet wide shall be provided and maintained beside or between each row of bicycle parking.
- D. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (e.g., a "rack") upon which a bicycle can be locked.
- E. Areas set aside for required bicycle parking must be clearly marked and reserved for bicycle parking only.

Staff: Expands requirement for bike parking to commercial and institutional projects that generate a demand for more than 5 new parking spaces. Added per Reference 5, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

14.14.080 Shared Parking

The off-street parking requirements of two or more uses, structures, or parcels may be satisfied by the same parking lot or loading spaces used jointly to the extent that it can be shown by the owners or operators of the uses, structures, or parcels that their parking needs do not overlap. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

14.14.090 Parking Lot Standards

Parking lots shall comply with the following:

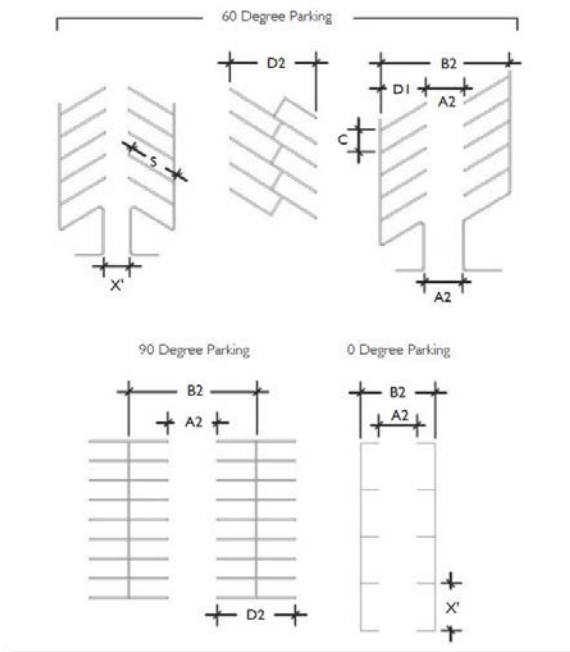
- A. Parking Lot Minimum Standards. Parking lots shall be designed pursuant to the minimum dimensions provided in Table 14.14.090-A and Figure 14.14.090-A. Size of Spaces. Standard parking spaces shall be nine (9) feet in width by 18 feet in length. Compact spaces may be 7.5 feet wide by 15 feet long. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking space(s) shall be not less than eight (8) feet wide and 22 feet long. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles so long as the parking spaces so created contain within them the rectangular area required by this section.
- B. Aisle Widths. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking:

Parking Angle	0	30°	45°	60°	90°
Aisle Width					
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

Table 14.14.090-A. Parking Lot Minimum Dimensions for Standard Space

<u>PARKING</u> <u>ANGLE</u> <u>< °</u>	<u>CURB</u> <u>LENGTH</u>	<u>STALL DEPTH</u>		<u> AISLE WIDTH</u>		<u> BAY WIDTH</u>		<u>STRIPE</u> <u>LENGTH</u>
		<u>SINGLE</u>	<u>DOUBLE</u>	<u>ONE</u>	<u>TWO</u>	<u>ONE</u>	<u>TWO</u>	
		<u>D1</u>	<u>D2</u>	<u>WAY</u> <u>A1</u>	<u>WAY</u> <u>A2</u>	<u>WAY</u> <u>B1</u>	<u>WAY</u> <u>B2</u>	
90°	8'-6"	18'	36'	23'	23'	59'	59'	18'
60°	10'	20'	40'	17'	18'	57'	58'	23'
45°	12'	18'-6"	37'	13'	18'	50'	55'	26'-6"
30°	17'	16'-6"	33'	12'	18'	45'	51'	32'-8"
0°	22'	8'-6"	17'	12'	18'	29'	35'	8'-6"

Figure 14.14.090-A. Parking Lot Minimum Dimensions



C. Surfacing.

1. All parking lots that are required to have more than five parking spaces shall be graded and surfaced with asphalt or concrete. Other material that will provide equivalent protection against potholes, erosion, and dust may be approved by the City Engineer if an equivalent level of stability is achieved.
2. Parking lots having less than five parking spaces are not required to have the type of surface material specified in subsection (1), above. However, such parking lot shall be graded and surfaced with crushed rock, gravel, or other suitable material as approved by the City Engineer. The perimeter of such parking lot shall be defined by brick, stones, railroad ties, or other such similar devices. Whenever such a parking lot abuts a paved street, the driveway leading from such street to the parking lot shall be paved with concrete from the street to the property line of the parking lot.

3. Parking spaces in areas surfaced in accordance with subsection (1) shall be appropriately demarcated with painted lines or other markings.

D. Joint Use of Required Parking Spaces. One parking lot may contain required spaces for several different uses, but the required spaces assigned to one use may not be credited to any other use.

E. Satellite Parking.

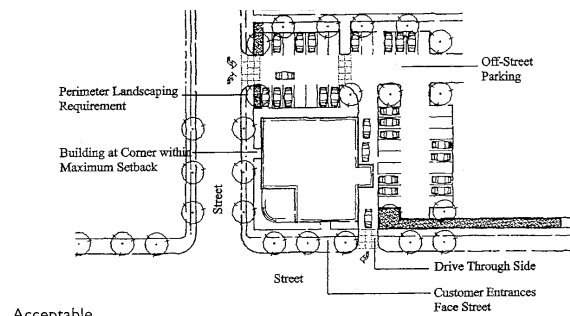
1. If the number of off-street parking spaces required by this chapter cannot be provided on the same lot where the principal use is located, then spaces may be provided on adjacent or nearby lots in accordance with the provisions of this section. These off-site spaces are referred to as satellite parking spaces.
2. All such satellite parking spaces shall be located within 200 feet of the principal building or lot associated with such parking.
3. The applicant wishing to take advantage of the provisions of this section must present satisfactory written evidence that the permission of the owner or other person in charge of the satellite parking spaces to use such spaces has been obtained. The applicant must also sign an acknowledgement that the continuing validity of the use depends upon the continued ability to provide the requisite number of parking spaces.
4. Satellite parking spaces allowed in accordance with this subsection shall meet all the requirements contained in this section.

F. Lighting. Lighting from parking lots shall be so designed and located as to not glare onto neighboring residential properties. Such lighting shall be screened, shaded, or designed in such a way as to comply with the requirement contained in this section. This section is not intended to apply to public street lighting or to outdoor recreational uses such as ball fields, playing fields, and tennis courts.

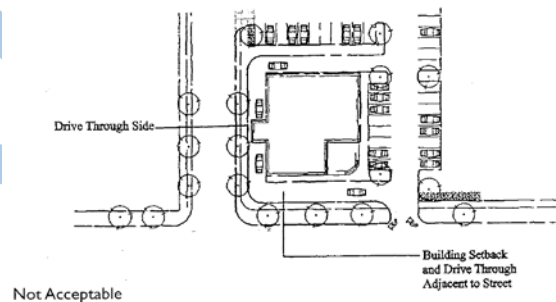
G. Drive-Up/Drive-In/Drive-Through Uses and Facilities. Drive-up or drive-through uses and facilities shall conform to the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety (Figures 1 and 2).

1. The drive-up/drive-through facility shall orient to an alley, driveway, or interior parking area, and not a street; and
2. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within 20 feet of a street and shall not be oriented to a street corner. (Walk-up only teller machines and kiosks may be oriented to a street or placed adjacent to a street corner); and
3. Drive-up/in queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way.

Figure 1 – Drive-Up and Drive-Through Facilities



Acceptable



Not Acceptable

H. Driveway Standards. Driveways shall conform to the requirements of Chapter 14.46.

I. Landscaping and Screening. Parking lot landscaping and screening standards must comply with Section 14.19.050.

J. Preferential Carpool/Vanpool Parking. Parking areas that have designated employee parking and more than 20 vehicle parking spaces shall provide at least 10% of the employee parking spaces, as preferential

carpool and vanpool parking spaces. Preferential carpool and vanpool parking spaces shall be closer to the employee entrance of the building than other parking spaces, with the exception of ADA accessible parking spaces.

Staff: Updates parking lot standards to include additional information for dimensions required to implement various parking lot configurations. Cross-references to new driveway standards and revised landscaping requirements. Revisions per References 8 and 11, Tech Memo #12, by Angelo Planning Group, dated 12/8/21

14.14.100 Special Area Parking Requirements

These special areas are defined as follows:

- A. Nye Beach. That area bounded by SW 2nd Street, NW 12th Street, NW and SW Hurbert Street, and the Pacific Ocean.
- B. Bayfront. That area bounded by Yaquina Bay and the following streets: SE Moore Drive, SE 5th and SE 13th, SW 13th Street, SW Canyon Way, SW 10th, SW Alder, SW 12th, SW Fall, SW 13th, and SW Bay.
- C. City Center. That area bounded by SW Fall Street, SW 7th Street, SW Neff Street, SW Alder Street, SW 2nd Street, SW Nye Street, Olive Street, SE Benton Street, SW 10th Street, SW Angle Street, SW 11th Street, SW Hurbert Street, and SW 10th Street.

Uses within a special area are not required to provide the parking required in this section if a parking district authorized by the City Council is formed in all or part of the special area. In such circumstances, off-street parking shall be provided as specified by the parking district.

14.14.110 Loading and Unloading Areas

Off-street loading and unloading areas shall be provided per this section.

- A. Whenever the normal operation of any use requires that goods, merchandise, or equipment be routinely delivered to or shipped from that use, a sufficient off-

street loading and unloading area must be provided in accordance with this subsection to accommodate the delivery or shipment operations in a safe and convenient manner.

- B. The loading and unloading area must accommodate the numbers as set forth in Table A. At a minimum, a loading and unloading space must be 35 feet in length, 10 feet in width, and 14 feet in height. The following table indicates the number of spaces that, presumptively, satisfy the standard set forth in this subsection.

Table 14.14.110-A, Required Loading Spaces

Square footage of Building	Number of Loading Spaces
0-19,999	0
20,000 – 79,999	1
80,000 – 119,999	2
120,000+	3

- C. Loading and unloading areas shall be located and designed so that vehicles intending to use them can maneuver safely and conveniently to and from a public right-of-way or any parking space or parking lot aisle. No space for loading shall be so located that a vehicle using such loading space projects into any public right-of-way.
- D. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- E. Whenever a change of use occurs after January 1, 1995, that does not involve any enlargement of a structure, and the loading area requirements of this section cannot be satisfied because there is insufficient area available on the lot that can practicably be used for loading and unloading, then the Planning Commission may waive the requirements of this section.
- F. Whenever a loading and unloading facility is located adjacent to a residential zone, the loading and

unloading facility shall be screened per [Section 14.18](#).

~~14.14.120~~ — Access

- ~~A. Access to parking lots shall be from a public street or alley. Access to loading and unloading areas shall be from a public street, an alley, or a parking lot.~~
- ~~B. Access to nonresidential parking lots or loading and unloading areas shall not be through areas that are zoned residential.~~
- ~~C. All accesses shall be approved by the City Engineer or designate.~~
- ~~D. Driveway accesses onto Arterial streets shall be spaced a distance of 500 feet where practical, as measured from the center of driveway to center of driveway.~~
- ~~E. Each parcel or lot shall be limited to one driveway onto an Arterial street unless the spacing standard in (D) can be satisfied.~~
- ~~F. Access Consolidation. Accesses shall be consolidated unless demonstrated to be unfeasible as determined by the City Engineer.~~

Staff: NMC 14.14.120 is being replaced with new Chapter 14.46, per Reference 6, Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

~~14.14.130~~120 Variances

Variances to this section may be approved in accordance with provisions of [Section 14.33](#), Adjustments and Variances, and a Type III Land Use Action decision process consistent with [Section 14.52](#), Procedural Requirements.*

CHAPTER 14.19 LANDSCAPING REQUIREMENT

14.19.010 Purpose

The purpose of this section is to provide for the installation, long-term maintenance and protection of trees, vegetation and other landscape elements within the City of Newport recognizing however, that development often times requires the removal of trees and other plant material. When removal is done, the purpose of this section is to require replacement that is attractive, well placed and enhances the overall appearance of the property and the City as a whole. It is further the purpose of this section to:

- A. Aid in air purification and storm water runoff retardation;
- B. Aid in the reduction of noise and glare;
- C. Provide visual buffers;
- D. Enhance the beauty of the city;
- E. Improve property values;
- F. Reduce erosion; and
- G. To protect and enhance the natural beauty, environment and greenspace within the City of Newport to advance economic development, attract residents and promote tourism.

14.19.020 Definitions

For purposes of this section, the following definitions shall apply. Where no definition is given, the common usage of the word shall be used. If there is a conflict between the definitions contained in this section and the more general definitions contained in the definitions section of this Ordinance, this section shall apply.

- A. Addition. An increase in the gross floor area.
- B. Bayfront. The area of the city defined in the Bayfront Plan section of the City's Comprehensive Plan.

- C. Buffer. The use of landscaping, or the use of landscaping along with berms or fences, that obscure the sight from an abutting property and uses, that at least partially and periodically obstructs view and noise. For purposes of this Section, the buffer does not count toward the required landscaping.
- D. City Center. The area of the city defined in Section 14.14.100(C) of this Code.
- E. Development. That which is done on a tax lot or parcel of property under one ownership pursuant to any permit issued by the City of Newport Department of Planning and Community Development.
- F. Gross Floor Area. The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- G. Hanging Basket. A basket of flowers or other plant material that is over a public right-of-way or private property and attached to a building, pole, wall, tree or other attachment. In no case shall a hanging basket be less than eight feet above a sidewalk or other pedestrian way or within two feet of a street or driveway.
- H. Landscaped Area. That area within the boundaries of a given lot or other area authorized for landscaping purposes which is devoted to and consists of landscaping.
- I. Landscaping. Material placed in a landscaped area including but not limited to grass, trees, shrubs, flowers, vines and other groundcover, native plant materials, planters, brick, stone, natural forms, water forms, aggregate and other landscape features, provided, however that the use of brick, stone, aggregate or other inorganic materials shall not predominate over the use of organic plant material. Landscaping does not include sidewalks, fences, walls, benches or other manufactured materials unless same is incidental to the total area of the landscaped area.

- J. Landscaping Plan. A drawing to scale showing the location, types and density of landscaping.
- K. Maintain or Maintenance. Any activity such as pruning, mulching, mowing, fertilizing, removal and replacement of dead vegetation and other similar acts that promote the life, growth, health or beauty of the landscape vegetation.
- L. Nye Beach. The area of the City defined in the Historic Nye Beach Overlay District section of this Ordinance.
- M. Planter. A decorative container for flowers, bushes, trees and other plant materials including but not limited to window boxes, planter boxes, flower pots and other containers.
- N. Sight obscuring. Landscaping, berms, fences, walls or a combination of all those elements that completely blocks the ability to see through it.
- O. Window or Planter Box. A decorative box, pot, or other container that contains flowers and other plant material that is placed immediately below a window, along a walkway or other location. In no case shall a window or planter box extend more than two feet or 20% of the distance from the building to the street curb into the public right-of-way, whichever is less.

14.19.030 Applicability

The provisions of this ordinance shall apply to all new commercial, industrial, public/institutional, and multi-family development, including additions to existing development or remodels.

14.19.040 General Requirements

The objective of this section is to encourage the planting and retention of existing trees and other vegetation to improve the appearance of off-street parking areas, yard areas and other vehicular use areas; to protect and preserve the appearance, character, and value of surrounding properties, and thereby promote the general

welfare, safety and aesthetic quality of the City of Newport; to establish buffer strips between properties of different land uses in order to reduce the effects of sight and sound and other incompatibilities between abutting land uses; to insure that noise, glare and other distractions within one area does not adversely affect activity within the other area. Prior to the issuance of a building permit, landscaping plans showing compliance with this section are required.

- A. No landscape plan submitted pursuant to this section shall be approved unless it conforms to the requirements of this ordinance.
- B. Landscape plans shall be submitted for all development. Said plans shall include dimensions and distances and clearly delineate the existing and proposed building, parking space, vehicular access and the location, size and description of all landscape areas and materials.
- C. Landscaping shall not obstruct the view at the intersection of two or more streets or alleys; or at the intersection of a street and a driveway.
- D. A guarantee of performance bond or escrow agreement shall be required in an amount to be determined by the Planning Director and approved by the City Attorney as to form to insure satisfactory completion of the landscaping plan as approved if the required landscaping is not installed prior to certificate of occupancy as required by the Building Code.

14.19.050 Landscaping Required for New Development, Exceptions

All new development, except for one and two family residences, shall be required to install landscaping per this section. For purposes of this section, new development shall mean construction upon a vacant lot or a lot that becomes vacant by virtue of the demolition of an existing building. Landscaping shall be provided as follows:

- A. Area. Landscaping shall be ten percent of the total square footage of a lot or parcel.

- B. Location. Landscaping shall be located along a street frontage or frontages.
- C. Exceptions. The right-of-way between a curb and a property line, not counting any sidewalk, driveway or other hard surfaces, may be used and counted toward the required landscaping as long as it has been determined by the Planning Director that the right-of-way is not needed for future street expansion. A developer may also plant a street tree within the sidewalk and it shall count toward meeting landscaping requirements subject to approval by the Planning Director and the City Engineer. A window or planter box may also be used to meet landscaping requirements at a ratio of 1 to 1. If the developer chooses to exercise this option, he or she shall enter into an agreement that the landscaping in the right-of-way is to be maintained as landscaping.
- D. Landscaping and Screening for Parking Lots. The purpose of this subsection is to break up large expanses of parking lots with landscaping. Therefore, all parking areas or each parking bay where a development contains multiple parking areas~~not abutting a landscaping area with 20 or more parking stalls~~ shall comply with the following provisions:
1. ~~Five percent of the parking area shall be dedicated to a landscaped area and areas. A~~ minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. This 10 percent landscaping requirement includes landscaping around the perimeter of parking areas as well as landscaped islands within parking areas. Such landscaping shall consist of canopy trees distributed throughout the parking area. A combination of deciduous and evergreen trees, shrubs, and ground cover plants is required. At a minimum, one tree per 12 parking spaces on average shall be planted over and around the parking area.

2. In no cases shall a landscaped area required under this subsection be larger than 300 square feet. If more landscaping is required than the 300 square feet it shall be provided in separate landscaping areas. All parking areas with more than 20 spaces shall provide landscape islands with trees that break up the parking area into rows of not more than 12 contiguous parking spaces. Landscape islands and planters shall have dimensions of not less than 48 square feet of area and no dimension of less than 6 feet, to ensure adequate soil, water, and space for healthy plant growth;
3. All required parking lot landscape areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants so that, within 2 years of planting, not less than 50 percent of that area is covered with living plants; and
4. Wheel stops, curbs, bollards or other physical barriers are required along the edges of all vehicle-maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall be planted not less than 2 feet from any such barrier.
5. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers, consistent with applicable nursery standards.
6. The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of between 3 feet and 4 feet.
7. The provisions of this subsection do not apply to areas for the storage and/or display of vehicles.

Staff: Increases parking lot landscaping requirement from five to 10 percent. Requires at least one tree for every 12 spaces, specifies minimum dimensions for

landscape islands to ensure sufficient space for plantings, outlines landscaping expectations, includes wheel stop requirements, and adds a standards for landscape screening to ensure headlights do not shine into residential yards or rights-of-way. Changes implement recommendations listed in Reference 8, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

14.19.060 Landscaping Requirements for Additions and Remodels

For purposes of this section, addition means any development that increases the floor area of a building. Remodel is any work requiring a building permit. For additions and remodels, landscaping shall be provided as follows:

- A. Area. If the subject development after completion complies with the requirements for new development, no additional landscaping is required. If the subject development does not comply with the requirement for new development, landscaping shall be installed so as follows:
1. For projects with a value of \$50,000 or less, no additional landscaping is required.
 2. For projects with a value of \$50,001 to \$100,000, the amount of landscaping shall be no less than 25% of that required for new development.
 3. For projects with a value of \$100,001 to \$175,000, the amount of landscaping shall be no less than 50% of that required for new development.
 4. For projects with a value of \$175,001 to \$300,000, the amount of landscaping shall be no less than 75% of that required for new development.
 5. For projects with a value greater than \$300,000, the amount of landscaping shall be 100% of that required for new development.

Values shall be based on year 2000 dollars and adjusted on July 1 of each year for inflation. The adjustment shall

be based on the latest available Portland, Oregon Consumer Price Index.

For purposes of this section, the value shall be based on the amount placed on the application for a building permit. If the Building Official determines that the value is below the actual value as calculated by the formulas developed by the State of Oregon Building Codes Division, the value on the permit shall be as determined by the Building Official. If there is a dispute as to the value, the matter shall be referred to the Planning Commission for resolution. The procedure used shall be the same as for a Type I variance contained in [Section 14.33](#) of this Ordinance.

In the case where a second addition or remodel is commenced within one year of the first addition or remodel, the two projects shall be counted as one with regard to determining the above landscaping requirements.

- B. Location. Landscaping shall be located along a street frontage or frontages.
- C. Exceptions. The right-of-way between a sidewalk and a property line may be used and counted toward the required landscaping as long as it has been determined by the Planning Director that the right-of-way is not needed for future street expansion. If the developer chooses to exercise this option, he or she shall enter into an agreement that the landscaping in the right-of-way is to be maintained as landscaping. In addition, window boxes may be substituted for surface landscaping. The calculation shall be one square foot of window box accounts for three square feet of surface landscaping as required in Subsection A of this Section. A developer may also plant a street tree within the sidewalk and it shall count toward meeting landscaping requirements subject to approval by the Planning Director and the City Engineer.

14.19.070 Nye Beach*

Development in the Historic Nye Beach Design Review District shall follow the same landscaping requirements

as [Subsection 14.19.080](#) (City Center and Bayfront) of Section 14.19 if landscaping requirements are not specified elsewhere. If landscaping is required under a permit issued under the design review design guidelines or design standards, then the permit requirements shall be the applicable landscaping requirements. If the permit requirements specify landscaping requirements that are to be implemented in conjunction with, or in addition to, the landscape requirements of this section, then the landscaping requirements of the permit shall be implemented in conjunction with, or in addition to, the requirements of landscaping specified in [Subsection 14.19.080](#) (City Center and Bayfront) of Section 14.19.

14.19.080 City Center and Bayfront

Because the City Center and Bayfront areas were platted and built on very small lots and many of the existing buildings are located on or near the property lines, a strict area landscaping requirement is difficult to obtain and places an undue burden on the property owner. Those areas shall therefore be subject to this section rather than [Sections 14.19.050](#) and [14.19.060](#) of this ordinance.

- A. New Development. The requirement for new development, defined as building on a vacant lot, shall be 10% of the lot area. In lieu of the 10%, hanging baskets or window/planter boxes may be substituted for surface landscaping, or any combination thereof. The calculation for square footage may be up to one square foot of hanging basket, planter box or window box for every three feet of otherwise required landscaping.
- B. Additions. Landscaping shall be required at a rate of 10% of the area of the addition. In lieu of the 10%, hanging baskets or window/planter boxes may be substituted for surface landscaping, or any combination thereof. The calculation for square footage may be up to one square foot of hanging basket, planter box or window box for every three feet of otherwise required landscaping.
- C. Remodels. Landscaping shall be required per [Section 14.19.060](#) except that in lieu of providing

surface landscaping, window/planter boxes or hanging baskets may be substituted at a rate of one square foot of window/planter box or hanging basket for every ten square feet otherwise required.

14.19.090 Maintenance of Required Landscaping

Landscaping required by this section, whether existing prior to January 1, 1999 or not, shall be reasonably maintained based on the time of year and kept free of weeds and garbage. Failure to maintain required landscaping may be found to be a violation and subject to penalties contained in [Section 14.54](#) of this Code.

14.19.100 Variances

Variances to the requirements of this section shall be subject to the processes and criteria contained in [Section 14.33](#), Adjustments and Variances, and [Section 14.52](#), Procedural Requirements.* As a condition of approval, the Planning Commission may require a bond to assure satisfactory completion of the required landscaping. The Planning Commission may also approve, in lieu of providing a strict landscaping area, window or planter boxes in numbers and size to comply with the intent of this section or a reduction of up to 25% of the required landscaping when the Commission finds that the architectural character of the building is of such quality to justify the reduction. The Commission may also waive up to 25% of the area requirement if the developer puts in an automatic sprinkling system to water the landscaping. The required parking may be reduced up to 10% of the number ordinarily required by this Code if the parking spaces lost is put into landscaping. The site plan prepared by a registered surveyor as required by [Sections 14.33.040](#) is not required for a variance under this Section. If there is a neighborhood design review process, that process supersedes the requirements in this section and, if the design review committee finds that the landscaping is consistent with their review, supersedes the need for a variance otherwise required by this Section.

CHAPTER 14.33 ADJUSTMENTS, ~~AND~~ VARIANCES, AND **TRANSPORTATION MITIGATION PROCEDURE**

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 14.52](#), 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.

14.33.040 Application Submittal Requirements

In addition to a land use application form with the information required in [Section 14.52.080](#), 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.

14.33.070 Transportation Mitigation Procedure

A. Purpose. The purpose of this procedure is to allow modifications to transportation standards where meeting the roadway cross-section requirements of Section 14.44.060 is not possible due to existing site constraints.

B. When Standards Apply. The standards of this section apply to new development or redevelopment for which a building permit is required and that place demands on public or private transportation facilities or city utilities. This procedure may be used in cases where full street improvements, half street improvements, and frontage improvements are required.

C. Approval Process.

1. Pre-application Conference. The applicant shall participate in a pre-application conference pursuant to Section 14.52.045 prior to submitting an application requesting a Transportation Mitigation Procedure. The Community Development Director, City Engineer, and other appropriate city officials will participate in the pre-application conference. The meeting will be coordinated with ODOT when an approach road to US-101 or US-20 serves the property so that the application addresses both city and ODOT requirements.

2. The applicable review process will be the same as that accorded to the underlying land use proposal. If not requested as part of a land use proposal, this procedure shall be subject to a Type I process as defined in Section 14.52.020 (A).

D. Approval Criteria.

1. A cross-section other than that identified in the adopted Transportation System Plan (TSP) for the functional classification of the roadway may be approved if one or more of the following conditions apply to the subject property and result

in site conditions that prohibit the minimum roadway cross-section from being constructed.

a. Slopes over 25%

b. Mapped landslide areas

c. Mapped wetlands (National Wetland Inventory, City Wetlands Areas, or site specific survey)

d. Existing structures

e. Historical resources

f. Insufficient right-of-way

2. The steps to determine an acceptable alternate roadway design must be documented and follow the Process for Determining Street Cross-Sections in Constrained Conditions, as detailed in Table 14.33.070-A.

3. The proposal shall identify which conditions in Subsection 1 above apply to the subject property and show how conditions prevent the minimum cross-section from being constructed.

4. The proposal shall include documentation in the form of a written agreement from the Community Development Director, or designee, in consultation with the City Engineer and other city officials, as appropriate, that the proposed cross-section is consistent with the Process for Determining Street Cross-Sections in Constrained Conditions outlined in Table 14.33.070-A.

Table 14.33.070-A. Process for Determining Street Cross-Sections in Constrained Conditions

ANY NON-ARTERIAL ¹ STREET FUNCTIONAL CLASSIFICATION WITH:	STEPS TO REDUCE LOWER PRIORITY STREET COMPONENTS ⁵			
	STEP 1	STEP 2	STEP 3	STEP 4
EQUAL PEDESTRIAN AND BICYCLE CORRIDORS ²		Reduce sidewalk frontage zone to acceptable width	Choose acceptable bike facility	Reduce the furnishings/landscape zone or pedestrian thoroughway to acceptable width
HIGHER PEDESTRIAN VS. BICYCLE CORRIDORS ³	Eliminate on-street parking on one or both sides	Implement acceptable bike facility	Reduce sidewalk frontage zone to acceptable width	
HIGHER BICYCLE VS. PEDESTRIAN CORRIDORS ⁴		Reduce sidewalk frontage zone to acceptable width	Reduce the furnishings/landscape zone or pedestrian thoroughway to acceptable width	Implement acceptable bike facility

Notes:

1. The street cross-section for ODOT facilities depends on the urban context and are subject to review and approval by ODOT. Additional detail is provided in the BUD.
2. Includes Major Pedestrian vs. Major Bicycle corridor, Neighborhood Pedestrian vs. Neighborhood Bicycle corridor, or Local Pedestrian vs. Local Bicycle corridor.
3. Includes Major Pedestrian vs. Neighborhood or Local Bicycle corridor, or Neighborhood Pedestrian vs. Local Bicycle corridor.
4. Includes Major Bicycle vs. Neighborhood or Local Pedestrian corridor, or Neighborhood Bicycle vs. Local Pedestrian corridor
5. Local Streets that carry less than 500 vehicles per day are candidates for shared street treatments in lieu of this process

D. Conditions of Approval. The city may deny, approve, or approve a development proposal with conditions needed to meet operations, structural, and safety standards and provide the necessary right-of-way and improvements to ensure consistency with the city's Transportation System Plan. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements are directly related and roughly proportional to the impact.

E. Fee in Lieu. The city may require the applicant to pay a fee in lieu of constructing required frontage

improvements, consistent with Section 14.44.70 - Fee in Lieu Option.

Staff: Subsection added per Reference 12, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Creates an appealable land use process for permitting deviations to minimum street cross-sections adopted in the Transportation System Plan.

DRAFT

CHAPTER 14.44 TRANSPORTATION STANDARDS

14.44.010 Purpose

The purpose of this Chapter is to provide planning and design standards for the implementation of public and private transportation facilities and city utilities and to indicate when and where they are required. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth and provide a range of transportation options, including options for driving, walking, bus, and bicycling. This Chapter implements the city's Transportation System Plan.

14.44.020 When Standards Apply

The standards of this section apply to new development or redevelopment for which a building permit is required that places demands on public or private transportation facilities or city utilities. Unless otherwise provided, all construction, reconstruction, or repair of transportation facilities, utilities, and other public improvements within the city shall comply with the standards of this Chapter.

14.44.030 Engineering Design Criteria, Standard Specifications and Details

The design criteria, standard construction specifications and details maintained by the City Engineer, or any other road authority within Newport, shall supplement the general design standards of this Chapter. The city's specifications, standards, and details are hereby incorporated into this code by reference.

14.44.040 Conditions of Development Approval

No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how

the required improvements are directly related and roughly proportional to the impact.

14.44.050 Transportation Standards

A. Development Standards. The following standards shall be met for all new uses and developments:

1. All new lots created, consolidated, or modified through a land division, partition, ~~lot-property~~ line adjustment, lot consolidation, or street vacation must have frontage or approved access to a public street.
2. Streets within or adjacent to a development subject to ~~Chapter 13.05~~Chapter 14.48, ~~Subdivision and Partition~~Land Divisions, shall be improved in accordance with the Transportation System Plan, the provisions of this Chapter, and the ~~street~~ standards in ~~Section 13.05.015~~Section 14.44.060.
3. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved ~~in accordance~~ Chapter 13.05~~in accordance with the standards of this Chapter~~, and public streets shall be dedicated to the applicable road authority;
4. Substandard streets adjacent to existing lots and parcels shall be brought into conformance with the standards of ~~this Chapter~~Chapter 13.05.
5. Neighborhood Traffic Management such as speed tables, curb bulb outs, traffic circles, and other solutions may be identified as required on-site or off-site improvements along Neighborhood Collector or Local Streets.

Staff: Added per Reference 14, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Introduces neighborhood traffic management concept for neighborhood collector and local streets.

B. Guarantee. The city may accept a future improvement guarantee in the form of a surety bond,

letter of credit or non-remonstrance agreement, in lieu of street improvements, if it determines that one or more of the following conditions exist:

1. A partial improvement may create a potential safety hazard to motorists or pedestrians;
2. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;
3. The improvement would be in conflict with an adopted capital improvement plan; or
4. The improvement is associated with an approved land partition or minor replat and the proposed land partition does not create any new streets.

C. Creation of Rights-of-Way for Streets and Related Purposes. Streets may be created through the approval and recording of a final subdivision or partition plat pursuant to Chapter 13.05; by acceptance of a deed, provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Transportation System Plan and the deeded right-of-way conforms to the standards of this Code; or other means as provided by state law.

D. Creation of Access Easements. The city may approve an access easement when the easement is necessary to provide viable access to a developable lot or parcel and there is not sufficient room for public right-of-way due to topography, lot configuration, or placement of existing buildings. Access easements shall be created and maintained in accordance with the Uniform Oregon Fire Code.

E. Street Location, Width, and Grade. The location, width and grade of all streets shall conform to the Transportation System Plan, subdivision plat, or street plan, as applicable and are to be constructed in a manner consistent with adopted City of Newport Engineering

Design Criteria, Standard Specifications and Details. Street location, width, and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets, pursuant to the requirements in Chapter 13.05 of this Chapter.

F. Transit improvements. Developments that are proposed on the same site as, or adjacent to, an existing or planned transit stop, as designated in the Lincoln County Transit District's 2018 Transit Development Plan, shall provide the following transit access and supportive improvements in coordination with the transit service provider:

1. Reasonably direct pedestrian and bicycle connections between the transit stop and primary entrances of the buildings on site, consistent with the definition of "reasonably direct" in Section 14.01.020.
2. The primary entrance of the building closest to the street where the transit stop is located shall be oriented to that street.
3. A transit passenger landing pad.
4. A passenger shelter or bench if such an improvement is identified in an adopted transportation or transit plan or if the transit stop is estimated by the Lincoln County Transit District to have at least 10 boardings per day.
5. Lighting at the transit stop.
6. Other improvements identified in an adopted transportation or transit plan, provided that the improvements are roughly proportional to the impact of the develop

Staff: Added per Reference 5, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Establishes requirements for transit related improvements, where appropriate, in conjunction with new development.

14.44.060 Streets, Pathways, Accessways, and Trails

A. Street Width and Cross Sections. Right-of-way and roadway widths shall conform to the Minimum Street Cross-Sections in the Transportation System Plan and the standards in Table 14.44.060-A.

Table 14.44.060-A. Minimum Right of Way and Roadway Widths

<u>Functional Classification</u>	<u>Minimum Right-of-Way Width</u>	<u>Minimum Roadway Width</u>
<u>Major Collector</u>	<u>70-ft</u>	<u>48-ft</u>
<u>Neighborhood Collector</u>	<u>50-ft</u>	<u>36-ft</u>
<u>Local</u>	<u>50-ft</u>	<u>36-ft</u>
<u>Yield Street</u>	<u>40-ft</u>	<u>24-ft</u>
<u>Shared Street</u>	<u>30-ft</u>	<u>16-ft. ¹</u>

¹. A 12-ft width may apply to local streets that carry fewer than 150 vehicles per day.

B. Travel Lane and On-Street Parking. Travel lanes and on-street parking areas shall be sized in accordance with the standards in Table 14.44.060-B

Table 14.44.060-B. Minimum On-Street Parking and Roadway Widths

<u>Roadway Classification</u>	<u>Arterial Street ¹</u>	<u>Major Collector</u>	<u>Neighborhood Collector</u>	<u>Local Street</u>	<u>Yield Street ²</u>
<u>Through Lanes</u>	<u>2 to 4</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>1</u>
<u>Min. Lane Width</u>	<u>11-12 ft. ³</u>	<u>10 ft. ⁴</u>	<u>10 ft. ⁴</u>	<u>10 ft.</u>	<u>12 – 16 ft.</u>
<u>Median/Center Turn Lane</u>	<u>11-14 ft. ⁶</u>	<u>11 ft. ⁷</u>	<u>11 ft. ⁷</u>	<u>None</u>	<u>None</u>
<u>Min. On-Street Parking Width</u>	<u>Context Dependent, 7-8 ft.</u>	<u>8 ft.</u>	<u>8 ft.</u>	<u>7-8 ft. ⁸</u>	<u>7-ft one side ⁸</u>

¹. Although guidance is provided for arterial streets, these are under State jurisdiction. Values presented in this table are consistent with the Blueprint for Urban Design (BUD). For detailed design recommendations on US 101 and US 20, the identified urban contexts for Newport are provided in the appendix and the BUD is publicly available.

². For use along low volume local streets in residential areas only. Requires intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities. For blocks of no more than 300 ft. in length, and with fire access roads at both ends, a 16 ft. width may apply to local streets that carry fewer than 500 vehicles per day, or a 12 ft. width may apply to local streets that carry fewer than 150 vehicles per day. For blocks longer than 300 feet, this also requires 30 ft. long pullouts/no parking zones every 150 ft. to allow for 20 ft. wide clear areas (excluding drainage swales) or 26 ft. wide clear areas near fire hydrants.

3. 11 ft. travel lanes are preferred for most urban contexts within Newport. 11 ft. travel lanes are standard for central business district areas in the BUD. Adjustments may be required for freight reduction review routes. Final lane width recommendations are subject to review and approval by ODOT.
4. Travel lanes widths of 11-12 ft. are required along designated local truck routes.
5. A minimum 8-ft.-wide pedestrian refuge should be provided at marked crossings. Otherwise, a median can be reduced to a minimum of 4 ft. at midblock locations that are more than 150 ft. from an arterial (i.e., US 101 and US 20), before widening at intersections for left-turn lanes (where required or needed).
6. The BUD recommends a 14 ft. lane for speeds above 40 mph. Final lane width recommendations are subject to review and approval by ODOT.
7. Center turn lane required at and within 150 ft. of intersections with arterials (i.e., US 101 and US 20). Otherwise, it is optional and should be used to facilitate turning movements and/or street crossings; minimum 8-ft-wide median required where refuge is needed for pedestrian/bicycle street crossings.
8. On-street parking is preferred along all City streets where block spacing, and system connectivity standards are met. An 8 ft. width is required in most areas, with a 7 ft. width only allowed along local streets in residential areas. Local yield/shared streets require intermittent on-street parking on at least one side to allow for vehicle queuing and passing opportunities, with an 8 ft. width required when on only one side, and 7 ft. width allowed when on both sides. Shoulders totaling 8 ft. in collective width may also be provided in lieu of parking

C. If the required cross-section is wider than the available right-of-way, coordination with the City of Newport is required to determine whether right-of-way dedication is necessary or design elements can be narrowed or removed. Any modifications to the minimum street cross-section require approval pursuant to the requirements of Section 14.33.100 - Transportation Mitigation Procedure. Requests for modifications involving ODOT facilities will require review and approval by ODOT.

D. Reserve Strips. Reserve strips giving a private property owner control of access to streets are not allowed.

E. Alignment. Streets shall be in alignment with existing streets by continuations of their center lines. Staggered street alignment resulting in "T" intersections shall leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and, in no case, shall be less than 100 feet. If not practical to do so because of topography or other conditions, this requirement may be modified by the approving authority.

F. Future Extensions of Streets. Proposed streets within a land division shall be extended to the boundary of the land division. A turnaround if required by the Oregon Fire Code will be required to be provided. If the approval authority determines that it is not necessary to extend the

streets to allow the future division of adjoining land in accordance with this chapter, then this requirement may be modified such that a proposed street does not have to be extended to the boundary.

G. Intersection Angles.

1. Streets shall be laid out to intersect at right angles.
2. An arterial intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection.
3. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection.
4. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line.
5. No more than two streets may intersect at any one point.
6. If it is impractical due to topography or other conditions that require a lesser angle, the requirements of this section may be modified by the approval authority. In no case shall the acute angle in Subsection G.(1.) be less than 80 degrees unless there is a special intersection design.

H. Half Street. Half streets are not allowed. Modifications to this requirement may be made by the approving authority to allow half streets only where essential to the reasonable development of the property, when in conformity with the other requirements of these regulations and when the city finds it will be practical to require the dedication of the other half when the adjoining property is divided or developed.

I. Sidewalks. Sidewalks in conformance with the city's adopted sidewalk design standards are required as outlined in the adopted Transportations System Plan and Table 14.44.060(C) below. Any modifications to the sidewalk standards require approval pursuant to the requirements of Section 14.33.100 - Transportation

Mitigation Procedure. Requests for modifications involving ODOT facilities will require review and approval by ODOT.

Table 14.44.060-C. Minimum On-Street Parking and Roadway Widths

<u>Roadway Classification</u>	<u>Arterial Street ¹</u>	<u>Major Collector (Commercial)</u>	<u>Major Collector (Non-Commercial)</u>	<u>Neighborhood Collector</u>	<u>Local/Yield Street ³</u>
<u>Edge</u>	<u>1-4 ft.</u>	<u>0 ft.</u>	<u>0 ft.</u>	<u>0 ft.</u>	<u>0 ft.</u>
<u>Pedestrian Throughway</u>	<u>5-10 ft.</u>	<u>8 ft. ⁴</u>	<u>6 ft.</u>	<u>6 ft.</u>	<u>5 ft.</u>
<u>Furnishings/Landscape (including curb)</u>	<u>5.5-6.5 ft.</u>	<u>3 ft.</u>	<u>3 ft.</u>	<u>0.5 ft.</u>	<u>0.5 ft.</u>
<u>Min. Walkway Width</u>	<u>Variable ⁵</u>	<u>11 ft.</u>	<u>9 ft.</u>	<u>6.5 ft.</u>	<u>5.5 ft.</u>
<u>Minimum Buffer (Pedestrian Throughway to Vehicle Travel Way) ²</u>	<u>Variable ⁵</u>	<u>3 ft.</u>	<u>3 ft.</u>	<u>0.5 ft.</u>	<u>0.5 ft.</u>

¹. Minimum widths may be expanded in areas with enhanced pedestrian activity, or when identified as a project in the TSP or subsequently adopted refinement plan. For instance, the edge zone may need to be expanded to accommodate outdoor seating for the adjacent land use.

². Includes width of on-street parking, bike facilities, and furnishing/landscape zone.

³. Local streets that are also constructed as shared/yield streets do not require curbs and may include a 5 ft. shoulder walkway at street level, with the travel lanes and shoulders satisfying pedestrian needs. In constrained cases, the shoulder walkway may be provided on only one side, or eliminated.

⁴. In highly constrained locations, the landscape buffer may be eliminated to meet the required 8 ft. pedestrian throughway with approval from the City Engineer, City Engineer's designee or Community Development Director.

⁵. Desired walkway and buffer width for ODOT facilities depends on the urban context and are subject to review and approval by ODOT.

J. Cul-de-sac. A cul-de-sac shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a circular turn-around meeting minimum Oregon Fire Code requirements. Modifications to this requirement may be made by the approving authority. A pedestrian or bicycle accessway may be required by easement or dedication by the approving authority to connect from a cul-de-sac to a nearby or abutting street, park, school, or trail system to allow for efficient pedestrian and bicycle connectivity between areas if a modification is approved and the requested easement or dedication has a rational

nexus to the proposed development and is roughly proportional to the impacts created by the proposed land division or development.

K. Street Names. Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the city, as evident in the physical landscape and described in City of Newport Ordinance No. 665, as amended.

L. Alleys. Alleys shall be provided in commercial and industrial districts. If other permanent provisions for access to off-street parking and loading facilities are provided, the approving authority is authorized to modify this provision if a determination is made that the other permanent provisions for access to off-street parking and loading facilities are adequate to assure such access. The corners of alley intersections shall have a radius of not less than 12 feet.

M. Street Trees. Trees and other plantings may be installed within proposed or existing rights-of-ways provided they conform to the City's approved Tree Manual.

N. Accessways. Accessways must be on public easements or rights-of-way and have a minimum paved surface of 8 feet, with a 2-foot shoulder on each side, within a 12-foot right-of-way.

O. Shared Use Paths. A shared use path must be a minimum of 10 feet wide within 14 feet of right-of-way. In areas with significant walking or biking demand, as identified in the Newport Transportation System Plan (e.g., Nye Beach Area, Oregon Coast Bike Route) or on ODOT facilities, the path must be 12 feet wide within a right-of-way of 16 feet (see Figure 14.44.060-A). A shared use path may be narrowed to 8 feet over short distances to address environmental or right-of-way constraints.

Figure 14.44.060-A, Pedestrian Trail, Accessway, & Shared Use Paths

PEDESTRIAN TRAIL DESIGN	ACCESSWAY OR LOW USE SHARED USE PATH DESIGN ¹	TYPICAL SHARED USE PATH DESIGN ²
		

¹. For short segments, a low use shared use path can be as narrow as 8-feet wide, with a 1-foot shoulder on each side and a total right-of-way of 10 feet..

². A shared use path width of 12 feet is required parallel to ODOT facilities and may be applied in other areas with significant walking or biking demand (e.g. Nye Beach, Oregon Coast Bike Route).

P. Pedestrian Trail. Pedestrian trails are typically located in parks or natural areas and provide opportunities for both pedestrian circulation and recreation. They may be constructed as a hard or soft surface facility. The City of Newport Parks System Master Plan identifies requirements for specific trail improvements.

Q. Accessway. Accessways must be on public easements or rights-of-way and have minimum paved surface of 8 feet, with a 2-foot shoulder on each side, and 12 feet of right-of-way.

Staff: Added per Reference 14, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Land division street standards have been folded into this section with a cross reference in Section 14.48.015. Marginal Street standard that would allow local streets to parallel arterials in cases where a residential subdivision is adjacent to an arterial has been removed. Tables and Figure are pulled from the February 2022 draft TSP. Sidewalk table added since the Commission's May 9, 2022 work session.

14.44.070 Fee in Lieu Option

The city may require the applicant to pay a fee in lieu of constructing required frontage improvements.

A. A fee in lieu may be required by the city under the following circumstances:

1. There is no existing road network in the area.
2. There is a planned roadway in the vicinity of the site, or an existing roadway stubbing into the site, that would provide better access and local street connectivity.
3. When required improvements are inconsistent with the phasing of transportation improvements in the vicinity and would be more efficiently or effectively built subsequent to or in conjunction with other needed improvements in area.

B. The fee shall be calculated as a fixed amount per linear foot of needed transportation facility improvements. The rate shall be set at the current rate of construction per square foot or square yard of roadway built to adopted city or ODOT standards at the time of application. Such rate shall be determined by the city, based upon available and appropriate bid price information, including but not limited to surveys of local construction bid prices, and ODOT bid prices. This amount shall be established by resolution of the City Council upon the recommendation of the City Engineer and reviewed periodically. The amount of monies deposited with the city shall be at least 125 percent of the estimated cost of the required street improvements, inclusive of associated storm drainage improvements, or such other percentage to account for inflation, as established by City Council resolution. The fee shall be paid prior to final plat recording for land division applications or issuance of a building permit for land development applications.

C. All fees collected under the provisions of Section 14.44.070 shall be used for construction of like type roadway improvements within City of Newport's Urban Growth Boundary, consistent with the

Transportation System Plan. Fees assessed to the proposed development shall be roughly proportional to the benefits the proposed development will obtain from improvements constructed with the paid fee.

Staff: Moved from Chapter 14.45 to this location per Reference 3, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

DRAFT

CHAPTER 14.45 TRAFFIC IMPACT ANALYSIS

14.45.010 Applicability

A Traffic Impact Analysis (TIA) shall be submitted to the city with a land use application under any one or more of the following circumstances:

- A. To determine whether a significant effect on the transportation system would result from a proposed amendment to the Newport Comprehensive Plan or to a land use regulation, as specified in OAR 660-012-0060.
- B. ODOT requires a TIA in conjunction with a requested approach road permit, as specified in OAR 734-051-3030(4).
- C. The proposal may generate 500 or more average daily trips or 100-50 PM peak-hour trips or more onto city streets or county roads.
- D. The proposal may increase use of any adjacent street by 10 vehicles or more per day that exceeds 26,000 pound gross vehicle weight.
- E. The proposal includes a request to use Trip Reserve Fund trips to meet the requirements of [Chapter 14.43](#), South Beach Transportation Overlay Zone.
- F. Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or the location of an existing or proposed access driveway does not meet minimum access spacing or sight distance requirements.
- G. For phased development on a lot, parcel or tract, the number of vehicle trips shall be the cumulative number of vehicle trips generated for all phases until such time as traffic impact analysis is required pursuant to this section.

14.45.020 Traffic Impact Analysis Requirements

- A. Pre-application Conference. The applicant shall meet with the City Engineer prior to submitting an application that requires a Traffic Impact Analysis (TIA). This meeting will be coordinated with ODOT when an approach road to US-101 or US-20 serves the property so that the completed TIA meets both City and ODOT requirements.
- B. Preparation. The submitted TIA shall be prepared by an Oregon Registered Professional Engineer that is qualified to perform traffic engineering analysis and will be paid for by the applicant.
- C. Typical Average Daily Trips and Peak Hour Trips. The latest edition of the Trip Generation Manual, published by the Institute of Transportation Engineers (ITE) shall be used to gauge PM peak hour vehicle trips, unless a specific trip generation study that is approved by the City Engineer indicates an alternative trip generation rate is appropriate. An applicant may choose, but is not required, to use a trip generation study as a reference to determine trip generation for a specific land use which is not well represented in the ITE Trip Generation Manual and for which similar facilities are available to count.
- D. Intersection-level Analysis. Intersection-level analysis shall occur at every intersection where 50 or more peak hour vehicle trips can be expected as a result of the proposal.
- E. Transportation Planning Rule Compliance. The TIA shall comply with the requirements of OAR 660-012-0060.
- F. Structural conditions. The TIA shall address the condition of the impacted roadways and identify structural deficiencies or reduction in the useful life of existing facilities related to the proposed development.
- G. Heavy vehicle routes. If the proposal includes an increase in 10 or more of the vehicles described in [Section 14.45.010.D](#), the TIA shall address the

provisions of [Section 14.45.020.F](#) for the routes used to reach US-101 or US-20.

H. **Phased Development.** If the land use application is part of a phased development, the TIA shall analyze the ultimate build-out of all phases of the project.

14.45.030 Study Area

The following facilities shall be included in the study area for all TIAs:

- A. All site-access points and intersections (signalized and unsignalized) adjacent to the proposed site. If the proposed site fronts an arterial or collector street, the analysis shall address all intersections and driveways along the site frontage and within the access spacing distances extending out from the boundary of the site frontage.
- B. Roads through and adjacent to the site.
- C. All intersections needed for signal progression analysis.
- D. In addition to these requirements, the City Engineer may require analysis of any additional intersections or roadway links that may be adversely affected as a result of the proposed development.

14.45.040 Approval Process

When a TIA is required, the applicable review process will be the same as that accorded to the underlying land use proposal. If a land use action is not otherwise required, then approval of the proposed development shall follow a Type II decision making process.

14.45.050 Approval Criteria

When a TIA is required, a development proposal is subject to the following criteria, in addition to all criteria otherwise applicable to the underlying proposal:

- A. The analysis complies with the requirements of [14.45.020](#);
- B. The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or identifies mitigation measures that resolve the traffic safety problems in a manner that is satisfactory to the City Engineer and, when state highway facilities are affected, to ODOT; and
- C. Where a proposed amendment to the Newport Comprehensive Plan or land use regulation would significantly affect an existing or planned transportation facility, the TIA must demonstrate that solutions have been developed that are consistent with the provisions of OAR 660-012-0060; and
- D. For affected non-highway facilities, the TIA establishes that city Level of Service (LOS) and volume to capacity (v/c) standards, known collectively as city's vehicle mobility standards, have been met as outlined in Table 14.45.050-A; and any Level of Service standards adopted by the city have been met, and development will not cause excessive queuing or delays at affected intersections, as determined in the City Engineer's sole discretion; and

Table 14.45.050-A. Vehicle Mobility Standard for City Streets from the Newport Transportation System Plan

<u>Intersection Type</u>	<u>Proposed Mobility Standard</u>	<u>Reporting Measure</u>
<u>Signalized</u>	<u>LOS D and v/c</u> <u>≤0.90</u>	<u>Intersection</u>
<u>All-way stop or roundabouts</u>	<u>LOS D and v/c</u> <u>≤0.90</u>	<u>Worst Approach</u>
<u>Two-way stop ¹</u>	<u>LOS E and v/c</u> <u>≤0.95</u>	<u>Worst Major Approach/Worst Minor Approach</u>

¹. Applies to approaches that serve more than 20 vehicles; there is no standard for approaches serving lower volumes.

- E. Proposed public improvements are designed and will be constructed to the standards specified in [Chapter 14.44 Transportation Standards](#) ~~or Chapter 13.05, Subdivision and Partition, as applicable.~~

14.45.060 Conditions of Approval

The city may deny, approve, or approve a development proposal with conditions needed to meet operations, structural, and safety standards and provide the necessary right-of-way and improvements to ensure consistency with the city's Transportation System Plan.

~~14.45.070 Fee in lieu Option~~

~~The city may require the applicant to pay a fee in lieu of constructing required frontage improvements.~~

~~A. A fee in lieu may be required by the city under the following circumstances:~~

- ~~1. There is no existing road network in the area.~~
- ~~2. There is a planned roadway in the vicinity of the site, or an existing roadway stubbing into the site, that would provide better access and local street connectivity.~~
- ~~3. When required improvements are inconsistent with the phasing of transportation improvements in the vicinity and would be more efficiently or effectively built subsequent to or in conjunction with other needed improvements in area.~~
- ~~4. For any other reason which would result in rendering construction of otherwise required improvements impractical at the time of development.~~

~~B. The fee shall be calculated as a fixed amount per linear foot of needed transportation facility improvements. The rate shall be set at the current rate of construction per square foot or square yard of roadway built to adopted city or ODOT standards at the time of application. Such rate shall be determined by the city, based upon available and appropriate bid price information, including but not limited to surveys of local construction bid prices, and ODOT bid prices. This amount shall be established by resolution of the City Council upon the recommendation of the City Engineer and reviewed periodically. The fee shall be~~

~~paid prior to final plat recording for land division applications or issuance of a building permit for land development applications.~~

~~C. All fees collected under the provisions of Section 14.45.070 shall be used for construction of like type roadway improvements within City of Newport's Urban Growth Boundary, consistent with the Transportation System Plan. Fees assessed to the proposed development shall be roughly proportional to the benefits the proposed development will obtain from improvements constructed with the paid fee.~~

Staff: Revisions reflect changes recommended Staff: Added per Reference 10, Tech Memo #12, by Angelo Planning Group, dated 12/8/21. . Changes address phased development, and add Level of Service and volume to capacity standards for intersections. 14.45.010(G) has been updated since the May 9, 2022 work session. Fee in lieu option moved to Chapter 14.44.

CHAPTER 14.46 VEHICULAR ACCESS AND CIRCULATION

14.46.010 Purpose

Chapter 14.46 implements the street access policies of the City of Newport Transportation System Plan. It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. "Safety," for the purposes of this chapter, extends to all modes of transportation.

14.46.020 Permit Required

Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires a right-of-way permit, pursuant to NMC Chapter 9.10. In addition, approval by Lincoln County is required for connections to county roads within the city limits, and authorization from the Oregon Department of Transportation is required for connections onto US 101 or US 20.

14.46.030 Approach and Driveway Development Standards

Approaches and driveways shall conform to all of the following applicable development standards:

- A. Access to parking lots shall be from a public street or alley. Access to loading and unloading areas shall be from a public street, an alley, or a parking lot.
- B. Access to nonresidential parking lots or loading and unloading areas shall not be through areas that are zoned residential.
- C. All accesses shall be approved by the City Engineer or designate.
- D. Accesses shall be consolidated unless demonstrated to be unfeasible as determined by the City Engineer.
- E. Access shall be taken from lower classification streets (e.g. local and neighborhood collector streets)

when it can be accomplished in conformance with these standards.

F. New approaches shall conform to the spacing standards listed in Table 14.46.020-A, and shall conform to minimum sight distance and channelization standards of the city, county or ODOT, as appropriate.

Table 14.46.020-A. Access Spacing Standards ¹

	<u>Arterials ²</u>	<u>Major Collectors</u>	<u>Neighborhood Collector</u>	<u>Local Street</u>
<u>Minimum Driveway Spacing (Driveway to Driveway)</u>	<u>See Table 14.46.020-B</u>	<u>100 ft.</u>	<u>75 ft.</u>	<u>n/a</u>
<u>Minimum Intersection Setback (Full Access Driveways Only)</u>	<u>See Table 14.46.020-B</u>	<u>150 ft.</u>	<u>75 ft.</u>	<u>25 ft.</u>
<u>Minimum Intersection Setback (Right-In/Right-Out Driveways)</u>	<u>See Table 14.46.020-B</u>	<u>75 ft.</u>	<u>50 ft.</u>	<u>25 ft.</u>
<u>Maximum Length Between Pedestrian/Bicycle Connections</u>	<u>See Table 14.46.020-B</u>	<u>300 ft.</u>	<u>300 ft.</u>	<u>300 ft.</u>

¹. All distances measured from edge of adjacent approaches.

². All Arterial streets are under ODOT jurisdiction. ODOT facilities are subject to access spacing guidelines in the Oregon Highway Plan, Appendix C Table 14, and the Blueprint for Urban Design. Blueprint for Urban Design Guidelines in Table 14.46.020-B are based on posted speed and urban context.

Table 14.46.020-B. Blueprint for Urban Design Guidelines for Arterial Access Spacing

<u>Urban Context (Posted Speed)</u>	<u>Target Spacing Range (Feet)</u>
<u>Traditional Downtown/CBD (20-25 mph)</u>	<u>250 - 550</u>
<u>Urban Mix (25-30 mph)</u>	<u>250 - v550</u>
<u>Commercial Corridor (30-35 mph)</u>	<u>500 - 1,000</u>
<u>Residential Corridor (30-35 mph)</u>	<u>500 - 1,000</u>
<u>Suburban Fringe (35-40 mph)</u>	<u>750 - 1,500</u>
<u>Rural Community (25-35 mph)</u>	<u>250 - 750</u>

Source: ODOT Blueprint for Urban Design, Tables 3-9 and 3-10

- G. Existing approaches shall be upgraded as specified in an approved Traffic Impact Analysis.
- H. With the exception of Private Driveways as defined in Section 14.01.020, all approaches and driveways serving more than five parking spaces shall be paved and meet applicable construction standards.
- I. The city may limit the number or location of connections to a street, or limit directional travel at an approach to one-way, right-turn only, or other restrictions, where the city, county, or ODOT requires mitigation to alleviate safety or traffic operations concerns.
- J. Where city, county, or ODOT spacing standards limit the number or location of connections to a street or highway, the city may require a driveway extend to one or more edges of a parcel and be designed to allow for future extension and inter-parcel circulation as adjacent properties develop. The city may also require the owner(s) of the subject site to record an access easement for future joint use of the approach and driveway as the adjacent property(ies) develop(s).
- K. Where applicable codes require emergency vehicle access, approaches and driveways shall be designed and constructed to accommodate emergency vehicle apparatus.
- L. As applicable, approaches and driveways shall be designed and constructed to accommodate truck/trailer-turning movements.
- M. Driveways shall accommodate all projected vehicular traffic on-site without vehicles stacking or backing up onto a street.
- N. Driveways shall be designed so that vehicle areas, including, but not limited to, vehicle storage and service areas, do not obstruct any public right-of-way.
- O. Drive-up/drive-in/drive-through uses and facilities shall meet the standards in Section 14.14.090(G).

- P. Approaches and driveways shall be a minimum of twelve (12) feet for a one-way drive and twenty (20) feet for a two-way drives. Approaches and driveways shall not be greater than 150% of the minimum, with the exception of those that serve industrial uses and heavy commercial uses which may be up to 35 feet.
- Q. Construction of approaches along acceleration or deceleration lanes, and along tapered (reduced width) portions of a roadway, shall be avoided; except where no reasonable alternative exists and the approach does not create safety or traffic operations concern.
- R. Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings.
- S. Where sidewalks or walkways occur adjacent to a roadway, driveway aprons constructed of concrete shall be installed between the driveway and roadway edge.
- T. Where an accessible route is required pursuant to ADA, approaches and driveways shall meet accessibility requirements where they coincide with an accessible route.
- U. The city may require changes to the proposed configuration and design of an approach, including the number of drive aisles or lanes, surfacing, traffic calming features, allowable turning movements, and other changes or mitigation, to ensure traffic safety and operations.
- V. Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, the applicant is responsible for obtaining ODOT approval. The city may approve a development conditionally, requiring the applicant first obtain required ODOT permit(s) before commencing development, in which case the city will work cooperatively with the applicant and ODOT to avoid unnecessary delays.

W. Where a proposed driveway crosses a culvert or drainage ditch, the city may require the developer to install a culvert extending under and beyond the edges of the driveway on both sides of it, pursuant to applicable engineering and stormwater design standards.

X. Temporary driveways providing access to a construction site, staging area, or special event shall be paved, graveled, or treated in an alternative manner as approved by the City Engineer, to prevent tracking of mud onto adjacent paved streets.

14.46.040 Exceptions and Adjustments

The city may approve deviations from the spacing standards in Table 14.46.020-A through a Type I procedure, when one of the following criteria can be met.

A. An existing connection to a city street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance; or

B. Mitigation measures, such as consolidated access, joint use driveways, directional limitations (e.g., one-way), turning restrictions (e.g., right-in/right-out only), or other mitigation actions can be shown to mitigate all traffic operations and safety concerns.

14.46.050 Joint Use Access Easement and Maintenance Agreement

Joint Use Access Easement and Maintenance Agreement. Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records.

Staff: Added vehicle access and circulation standards per Reference 6, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Process for Section 14.46.040, Exceptions and Adjustments, change to a Type I review to align with the transportation mitigation process in 14.33.070.

DRAFT

CHAPTER 14.47 PEDESTRIAN ACCESS

14.47.010 Purpose

This Chapter implements the pedestrian access and connectivity policies of City of Newport Transportation System Plan. It is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.

14.47.020 Applicability

The provisions of this chapter shall apply to all new or substantial improvements to commercial, industrial, public/institutional, and multifamily development as defined in 14.01.020. Where the provisions of this chapter conflict with facilities identified in the Newport Parks and Recreation Master Plan, the Newport Parks and Recreation Master Plan shall govern.

14.47.030 Standards

Developments shall conform to all of the following standards for pedestrian access and circulation:

- A. Continuous Walkway System. A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any.
- B. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas/playgrounds, and public rights-of-way based on all of the following criteria:
 - 1. The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel;
 - 2. The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The city may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.

3. The walkway network connects to all primary building entrances in a manner consistent with the Oregon Structural Specialty Code.

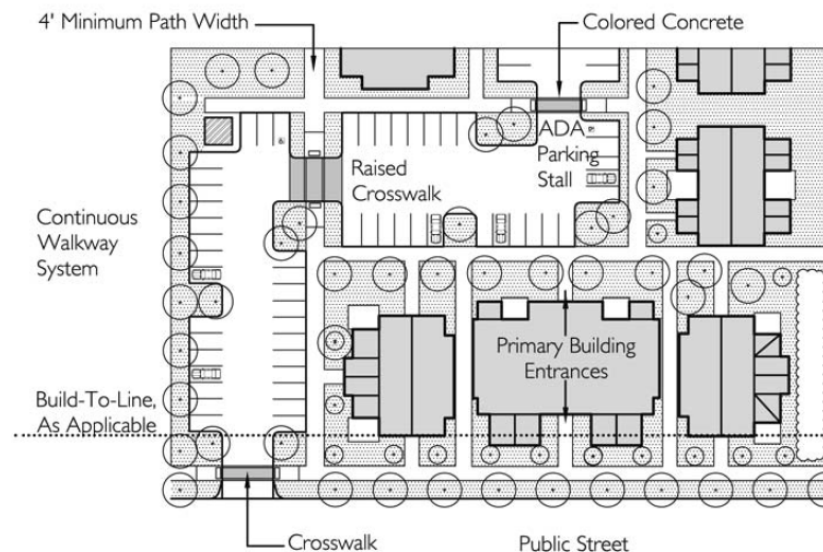
C. Crosswalks. Where a walkway crosses a parking area or driveway ("crosswalk"), it shall be clearly identified with pavement markings or contrasting paving materials (e.g., pavers, light color concrete inlay between asphalt, or similar contrast). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians.

D. Walkway Surface. Walkway surfaces may be concrete, asphalt, brick/masonry pavers, or other city-approved durable surface meeting Americans With Disabilities Act requirements.

E. Walkway Width. Walkways shall be not less than 4 feet in width, except that concrete walkways a minimum of 6 feet in width are required in commercial developments and where access ways are required.

F. Pedestrian Trail, Accessway, and Shared Use Path. Standards for trails, accessways, and shared use paths are found in Section 14.44.60.

Figure 14.47.030-A. Pedestrian Access and Circulation Standards Illustration



Staff: Added pedestrian access standards internal to a property in line with Reference 10, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

CHAPTER 14.48 LAND DIVISIONS

14.48.005 Purpose

This chapter provides uniform standards for the division of land and the installation of related improvements within the corporate limits of the city for the purposes of protecting property values, and furthering the health, safety and general welfare of the citizens of Newport. The provisions of this chapter implement Statewide Planning Goals as addressed in the Newport Comprehensive Plan along with the applicable portions of Chapters 92 and 227 of the Oregon Revised Statutes.

14.48.010 Application Requirements

A. A person seeking approval of a land division shall submit the following to the Community Development Department:

1. A completed city application form signed by the owner of the property or an authorized agent. If the application form is signed by an authorized agent, it must be accompanied by a document signed by the property owner authorizing the agent to act for the owner in the land division process.
2. An original tentative plan and 14 copies (3 copies if a minor replat or a partition).
3. A narrative listing each applicable approval criterion or standard and an explanation as to how the criterion or standard is met.
4. A vicinity map showing existing subdivisions and unsubdivided land ownerships adjacent to the proposed subdivision and showing how proposed streets and utilities will be extended to connect to existing streets and utilities and may be connected to future streets and utilities.

5. Proposed deed restrictions, if any, in outline form.
 6. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction.
 7. A plan for domestic water supply lines and related water service facilities.
 8. Proposals for sewage disposal, storm water drainage, and flood control, including profiles of proposed drainage ways.
 9. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.
 10. Where geologic hazards are known to exist on part or all of the property in question based on adopted maps of the City of Newport, a geologic hazard report is required and shall be provided in accordance with the requirements of Chapter 14.21. The report must clearly state what measures will be taken to safeguard against existing hazards.
 11. Written letters from public facilities (water, sewer, storm water, and streets) and utilities (electric and phone) identifying requirements for providing service to the land division.
 12. An application fee in an amount set by City Council resolution.
 13. A Trip Assessment Letter, if required by Chapter 14.43.
 14. A Traffic Impact Analysis, if required by Chapter 14.45.
 15. Other materials that the applicant believes relevant or that may be required by the city.
- B. The tentative plan of a land division shall be drawn on a sheet 18 by 24 inches in size or a multiple thereof at a scale of one inch equals 100 feet or, for areas over 100 acres, one inch equals 200 feet.

C. The following general information shall be shown on the tentative plan of the land division:

1. If a subdivision, the proposed name of the subdivision. This name shall not duplicate or resemble the name of another subdivision in the county and shall be approved by the Planning Commission.
2. Date, northpoint, and scale of the drawing.
3. Appropriate identification of the drawing as a tentative plan.
4. Location of the property being divided sufficient to define its location and boundaries, and a legal description of the entire property being divided.
5. Names and addresses of the owner, the applicant if different from the owner, and the engineer and/or surveyor.
6. The following existing conditions shall be shown on the tentative plan:
 - a. The location, widths, and names of existing streets and undeveloped rights of way within or adjacent to the tract, any existing easements, and other important features such as section lines, section corners, city boundary lines, and monuments.
 - b. Contour lines related to some established bench mark or other datum approved by the city and having minimum intervals as follows:
 - i. For slopes of less than 5 percent: show the direction of slope by means of arrows or other suitable symbols, together with not less than four (4) spot elevations per acre, evenly distributed.
 - ii. For slopes of 5 percent to 15 percent: five (5) feet.
 - iii. For slopes of 15 percent to 20 percent: 10 feet.
 - iv. For slopes of over 20 percent: 20 feet.

c. The location and direction of water courses and the location of areas subject to flooding.

d. Natural features such as wetlands, tidelands, marshes, or any natural resource identified as a protected Statewide Land Use Planning Goal 5 or Goal 17 resource on maps adopted by the city shall be identified. Other features, such as rock outcroppings, wooded areas, and isolated trees that serve as the basis of any requested modifications to the land division standards shall also be identified.

e. Existing uses of the property and location of existing structures to remain on the property after platting.

f. The location within the land division and in the adjoining streets and property of existing sewers, water mains, culverts, drain pipes, and utility lines.

7. The following information shall be included on the tentative plan of a subdivision.

a. The location, width, names, approximate grades, and radii of curves of proposed streets and the relationship of proposed streets to streets shown in the Transportation System Plan. Streets in existing adjacent developments and approved subdivisions and partitions shall also be shown, as well as potential street connections to adjoining undeveloped property.

b. The location, width, and purpose of proposed easements.

c. The location and approximate dimensions of proposed lots and the proposed lot and block numbers.

d. Proposed sites, if any, allocated for purposes other than single-family dwellings.

D. If the land division proposal pertains to only part of the property owned or controlled by the owner or

applicant, the city may require a sketch of a tentative layout for streets in the undivided portion.

14.48.015 Streets

Streets created with a subdivision or partition shall meet the requirements of Section 14.44.060.

14.48.020 Blocks

A. Blocks created in land divisions shall be consistent with the standards in Table 14.48.020-A. Modifications to the standards may be made by the approving authority pursuant to the standards in Chapter 14.33 if the street is adjacent to an arterial street, the location of adjoining streets, or other constraints identified in Section 14.33.100 justify the modification.

B. Mid-block pedestrian and bicycle connections must be provided when the block length exceeds 300 feet to ensure convenient access for all users. Mid-block pedestrian and bicycle connections must be provided on a public easement or right-of-way every 300 feet, unless the connection is impractical due to topography, inadequate sight distance, high vehicle travel speeds, lack of supporting land use, or other factors that may prevent safe crossing; or a rational nexus to the proposed development is not established and the connection is not roughly proportional to the impacts created by the proposed land division.

Table 14.48.020-A. Block Length ¹

	<u>Arterials ²</u>	<u>Major Collectors</u>	<u>Neighborhood Collector</u>	<u>Local Street</u>
<u>Maximum Block Length (Public Street to Public Street)</u>	<u>550 ft.</u>	<u>1,000 ft.</u>	<u>1,000 ft.</u>	<u>1,000 ft.</u>
<u>Minimum Block Length (Public Street to Public Street)</u>	<u>220 - 550 ft.</u>	<u>200 ft.</u>	<u>150 ft.</u>	<u>125 ft.</u>
<u>Maximum Length Between Pedestrian/Bicycle Connections (Public Street to Public Street, Public Street to Connection, or</u>	<u>220 - 550 ft.</u>	<u>300 ft.</u>	<u>300 ft.</u>	<u>300 ft.</u>

<u>Connection to Connection)</u> ²				
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¹. All distances measured from edge of adjacent approaches.

². See Section 14.48.020(B).

³. All Arterial streets are under ODOT jurisdiction. ODOT facilities are subject to access spacing guidelines in the Oregon Highway and the Blueprint for Urban Design which vary based on posted speed and urban context.

Staff: Revised per Reference 7, Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

14.48.020 Easements

A. Utility Lines. Easements for sewers and water mains shall be dedicated to the city wherever a utility is proposed outside of a public right-of-way. Such easements must be in a form acceptable to the city. Easements for electrical lines, or other public utilities outside of the public right-of-way shall be dedicated when requested by the utility provider. The easements shall be at least 12 feet wide and centered on lot or parcel lines, except for utility pole tieback easements, which may be reduced to six (6) feet in width.

B. Utility Infrastructure. Utilities may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.

C. Water Course. If a tract is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage rightof-way conforming substantially to the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.

14.48.025 Lots and Parcels

A. Size. The size (including minimum area and width) of lots and parcels shall be consistent with the applicable lot size provisions of the Zoning Ordinance, with the following exception: Where property is zoned and planned for business or industrial use, other widths and areas may be

permitted at the discretion of the Planning Commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

B. Street Frontage. Each lot and parcel shall possess at least 25 feet of frontage along a street other than an alley.

C. Through Lots and Parcels. Through lots and parcels are not allowed. Modifications may be made by the approving authority where they are essential to provide separation of residential development from major traffic arteries or adjacent nonresidential activities or to overcome specific disadvantages of topography and orientation. The approving authority may require a planting screen easement at least 10 feet wide and across which there shall be no right of access. Such easement may be required along the line of building sites abutting a traffic artery or other incompatible use.

D. Lot and Parcel Side Lines. The side lines of lots and parcels shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve. Modifications to this requirement may be made by the approving authority where it is impractical to do so due to topography or other conditions or when the efficient layout of the land division has the lines running as close to right angles (or radial) as practical.

E. Special Setback Lines. All special building setback lines, such as those proposed by the applicant or that are required by a geological report, which are to be established in a land division, shall be shown on the plat, or if temporary in nature, shall be included in the deed restrictions.

F. Maximum lot and parcel size. Proposed lots and parcels shall not contain square footage of more than 175% of the required minimum lot size for the applicable zone. Modifications to this requirement may be made by the approving authority to allow

greater square footage where topography or other conditions restrict further development potential or where the layout of the land division is designed and includes restrictions to provide for extension and opening of streets at intervals which will permit a subsequent division into lots or parcels of appropriate size for the applicable zone designation.

G. Development Constraints. No lot or parcel shall be created with more than 50 % of its land area containing wetlands or lands where the city restricts development to protect significant Statewide Land Use Planning Goal 5 or Goal 17 resources, except that areas designated as open space within a land division may contain up to 100% of a protected resource. Modifications to this requirement may be made by the approval authority if the approval authority determines that the proposed lot or parcel contains sufficient land area to allow for construction on the lot or parcel without impacting the Newport Municipal Code Index Page 508 resource or that a variance or other permit has been obtained to allow for impacts on the identified resource.

H. Lots and Parcels within Geologic Hazard Areas. Each new undeveloped lot or parcel shall include a minimum 1000 square foot building footprint within which a structure could be constructed and which is located outside of active and high hazard zones and active landslide areas (See NMC Chapter 14.21 for an explanation of hazard zones). New public infrastructure serving a lot or parcel shall similarly be located outside of active and high hazard zones and active landslide areas.

14.48.030 Public Improvement Requirements

A. The following public improvements are required for all land divisions, except where a subdivision plat is reconfiguring or establishing rights-of-way for future public streets:

1. Streets. All streets, including alleys, within the land division, streets adjacent but only partially

within the land divisions, and the extension of land division streets to the intersecting paving line of existing streets with which the land division streets intersect, shall be constructed in accordance with the standards set forth in Chapter 14.44. Street width standards may be adjusted subject to the provisions of Section 14.33.070.

Staff: Subsection amended per Reference 14, Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

2. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the land division and to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage within the land division shall consider the capacity and grade necessary to maintain unrestricted flow from areas draining through the land division and to allow extension of the system to serve such areas.
3. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot or parcel in accordance with standards adopted by the city, and sewer mains shall be installed in streets as necessary to connect each lot or parcel to the city's sewer system.
4. Water. Water mains shall be installed to allow service to each lot or parcel and to allow for connection to the city system, and service lines or stubs to each lot shall be provided. Fire hydrants shall be installed as required by the Uniform Fire Code. The city may require that mains be extended to the boundary of the land division to provide for future extension or looping.
5. Sidewalks. Required sidewalks shall be constructed in conjunction with the street improvements except as specified below:

a. Delayed Sidewalk Construction. If sidewalks are designed contiguous with the curb, the subdivider may delay the placement of concrete for the sidewalks by depositing with the city a cash bond equal to 115 percent of the estimated cost of the sidewalk. In such areas, sections of sidewalk shall be constructed by the owner of each lot as building permits are issued. Upon installation and acceptance by the city engineer, the land owner shall be reimbursed for the construction of the sidewalk from the bond. The amount of the reimbursement shall be in proportion to the footage of sidewalks installed compared with the cash bond deposited and any interest earned on the deposit.

b. Commencing three (3) years after filing of the final plat, or a date otherwise specified by the city, the city engineer shall cause all remaining sections of sidewalk to be constructed, using the remaining funds from the aforementioned cash bond. Any surplus funds shall be deposited in the city's general fund to cover administrative costs. Any shortfall will be paid from the general fund.

c. Notwithstanding the above, a developer may guarantee installation of required sidewalks in an Improvement Agreement as provided in Section 14.48.060.

B. Public Improvement Procedures. In addition to other requirements, public improvements installed by a developer that is dividing land, whether required or voluntarily provided, shall comply with this chapter, and with any public improvement standards or specifications adopted by the city. The following procedure shall be followed:

1. Improvement work, including excavation in the excess of 100 cubic yards, shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the

plans shall be required before approval of the tentative plan of a subdivision or partition.

2. Improvement work shall not commence until after the city is notified, and, if work is discontinued for any reason, it shall not be resumed until after the city is notified.
3. Public improvements shall be constructed under the inspection and to the satisfaction of the city engineer. The city may require change in typical sections and details in the public interest if unusual conditions arise during construction to warrant the change.
4. Underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connection for underground utilities and sanitary sewers shall be placed to allow future connections without disturbing the street improvements.
5. A map showing public improvements as built shall be filed with the city upon completion of the improvements.
6. Public improvements shall not be commenced until any appeals of the subdivision approval are resolved.

14.48.035 Adequacy of Public Facilities and Utilities

- A. Tentative plans for land divisions shall be approved only if public facilities and utilities (electric and phone) can be provided to adequately service the land division as demonstrated by a written letter from the public facility provider or utility provider stating the requirements for the provision of public facilities or utilities (electric and phone) to the proposed land division.
- B. For public facilities of sewer, water, storm water, and streets, the letter must identify the:

1. Water main sizes and locations, and pumps needed, if any, to serve the land division.
2. Sewer mains sizes and locations, and pumping facilities needed, if any, to serve the land division.
3. Storm drainage facilities needed, if any, to handle any increased flow or concentration of surface drainage from the land division, or detention or retention facilities that could be used to eliminate need for additional conveyance capacity, without increasing erosion or flooding.
4. Street improvements outside of the proposed development that may be needed to adequately handle traffic generated from the proposed development.

14.48.040 Underground Utilities and Service Facilities

- A. Undergrounding. All utility lines within the boundary of the proposed land divisions, including, but not limited to, those required for electric, telephone, lighting, and cable television services and related facilities shall be placed underground, except surface-mounted transformers, surface-mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider shall make all necessary arrangements with the serving utility to provide the underground service.
- B. Non-City-Owned Utilities. As part of the application for tentative land division approval, the applicant shall submit a copy of the preliminary plat to all non-city-owned utilities that will serve the proposed subdivision. The subdivider shall secure from the non-city-owned utilities, including but not limited to

electrical, telephone, cable television, and natural gas utilities, a written statement that will set forth their extension policy to serve the proposed land division with underground facilities. The written statements from each utility shall be submitted to the city prior to the final approval of the plat for recording.

14.48.045 Minor Replats and Partitions

A. Approval Criteria. The criteria for approval are as follows:

1. The tentative plan complies with the definition of a replat or partition, as appropriate.

2. All lots or parcels within the tentative plan meet the requirements of Section 14.48.025. Alternatively, if the original lots or parcels were nonconforming, the resultant lots or parcels may be allowed without a variance if they are less nonconforming.

3. Approval of the tentative plan does not interfere with the provision of key public facilities.

4. The applicant has agreed to sign a consent to participate in sewer, water, or street local improvement districts that the subject lots or parcels would be part of once those districts are formed. The consent shall be a separate document recorded upon the lots or parcels subject to the partition. The document shall be recorded prior to final plat approval.

5. Public facilities serving the minor replat or partition are adequate under Section 14.48.035. Proposed streets within the minor replat or partition comply with the standards under Section 14.48.015, including any allowed modification, or a variance has been obtained.

6. All required public improvements will be provided.

7. Any required submitted geological hazard report concludes that the property can be developed in the manner proposed, in accordance with any recommendations contained in the report.

B. Compliance with Criteria. If the tentative plan complies with the criteria, the plan shall be approved. Conditions of approval, including requirements to provide public improvements necessary to allow development, may be imposed. If the tentative plan does not comply with the criteria or cannot be made to comply through reasonable conditions of approval, the plan shall be denied and the applicant shall be notified in writing why the tentative plan was denied and what items need to be corrected before the tentative plan can be approved.

C. Geological Hazards Reports. Approval of the minor replat or partition pursuant to a submitted geological hazard report includes approval of the geological report recommendations. Based on the report, the community development director shall establish when compliance with the geological report recommendations must be demonstrated. This shall be in the form of a written certification prepared by an engineering geologist or other equivalent certified professional, establishing that the report requirements have been satisfied, and should be noted as a condition of approval.

D. Final Plat Approval. Within twenty-four (24) months of the tentative plan approval, the applicant shall submit to the city a final plat for the replat or partition that is consistent with the tentative plan and state law. A signature block for the Community Development Director, the Lincoln County Surveyor, the Lincoln County Tax Collector, and the Lincoln County Tax Assessor shall be on the final plat. The

Community Development Director shall approve the final plat if it is consistent with the tentative plan and all conditions have been satisfied, including the provision and acceptance of any required public improvements. The city shall forward approved plats to Lincoln County for review and recordation. The applicant shall submit one paper copy of the recorded final plat within 90 days to the community development department.

E. Procedure for Approval of Replat Other than a Minor Replat. The procedure and criteria for tentative and final approval of replats other than minor replats shall be the same as for subdivisions or partitions, depending on whether the replat is of a subdivision or partition.

14.48.050 Miscellaneous

A. Street Lights. Street lights are required in all land divisions where a street is proposed. The city may adopt street light standards. In the absence of adopted standards, street lights shall be place in new land divisions to assure adequate lighting of streets and sidewalks within and adjacent to the land division.

B. Street Signs. Street name signs, traffic control signs and parking control signs shall be furnished and installed by the city.

C. Monuments. Upon completion of street improvements, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.

D. Exceptions for Planned Developments. The standards and requirements of this Chapter

may be modified without an adjustment or variance for planned developments.

E. Adjustment or Variances. Adjustments or variances to this chapter not otherwise allowed by modification within this chapter are subject to the standards and procedures for set forth in Chapter 14.33. Notice of the adjustment or variance request may be included in the legal notice for the hearing on the tentative plan for a subdivision or may be provided separately.

F. Standards in Effect after Subdivision Approval
The land use standards in effect at the time of a subdivision approval apply to all applications for land use approval within the subdivision filed within 180 days of the subdivision approval. After that time, the land use standards in effect at the time the land use application is deemed complete shall apply to the land use application.

14.48.055 Cemeteries

A. Minimum Requirements for the Platting and Subdivision of Land for Cemetery Purposes. The following are the minimum requirements for lot sizes, walkways, streets, and street improvement widths applicable to cemeteries:

1. Lot Sizes:

- a. Width - not less than four feet.
- b. Length - not less than 10 feet.

2. Walkways:

- a. Width - not less than six (6) feet.
- b. Location - each individual grave to be served.

3. Street Right-of-Way Widths:

- a. Within the plat - not less than 32 feet.

b. Entrance roads - to conform to present city subdivision regulations.

4. Street Improvement Widths:

a. Within the plat - not less than 24 feet.

b. Entrance roads - to conform to present city subdivision regulations.

5. Dead end Roads (Within the Plat):

a. Right-of-way - not less than 42 feet.

b. Improvement width - not less than 36 feet.

c. Cul-de-sac - not less than a 45 foot radius.

B. Buffer Strips. Buffer strips shall be established that are at least 100 feet in width when a cemetery development is adjacent to a residentially zoned property; 75 feet when a cemetery development is adjacent to tourist commercial zoned property; and 50 feet in width when a cemetery development is adjacent to all other commercially zoned property. No lots shall be allowed within the buffer strips.

C. Buffer Strip Planting and Maintenance. All required buffer strips shall be planted at the time the adjacent land planted for cemetery lots is being offered for sale. The buffer strip shall have evergreen trees planted to such a density that they are an effective screen to adjoining property. The evergreen trees shall have an initial minimum planting height of four (4) feet and shall be of such species that they will reach a height of at least 20 feet at maturity. All remaining ground areas in the buffer strip shall be maintained as lawn area, shrubs, or flower beds, as are maintained by the management of the cemetery in all other areas of the cemetery plat that are presently being used.

D. Location of Cemeteries. No cemeteries shall be allowed to be placed within one mile of the high-water line of the Pacific Ocean and within one-half mile of the high-water line of the Yaquina Bay.

14.48.060 Final Plat Requirements

A. Final Plat Requirements for Land Divisions Other than Minor Replats or Partitions A. Submission of Final Plat. Within twenty-four (24) months after tentative plan approval, such other time established at the time of tentative plan approval, or extensions granted under this chapter, the owner and/or applicant (collectively referred to as the “developer”) shall cause the land division to be surveyed and a final plat prepared. If the developer elects to develop the land division in phases, final plats for each phase shall be completed within the time required (e.g. Phase I completed within two years, Phase II completed within the next two years, etc.). The final plat shall be in conformance with the approved tentative plan, this chapter, ORS Chapter 92, and standards of the Lincoln County Surveyor.

B. Provision of Improvements. It shall be the responsibility of the developer to install all required improvements and to repair any existing improvements damaged in the development of the property. The installation of improvements and repair of damage shall be completed prior to final plat approval. Except as provided in Subsection C., or where payment in lieu of constructing a required improvement is allowed by the city and has been paid by the developer per Chapter 14.45, the final plat will not be approved until improvements are installed to the specifications of the city and “as constructed” drawings are given to the city and approved by

the city engineer. The developer shall warrant the materials and workmanship of all required public improvements for a period of one year from the date the city accepts the public improvements.

C. Improvement Agreements. If all the required improvements have not been satisfactorily completed before the final plat is submitted for approval, the city may, at its discretion, allow final approval of the plat if the developer enters into a written agreement with the city to provide the required improvements secured by a bond or letter of credit. The agreement must provide for completion within one year of the approval of the final plat. The agreement shall be acceptable to the city attorney and include provisions that:

1. Authorize the city to complete the required improvements and recover their full cost and expense from the developer if the developer fails to complete the improvements as required.
2. Authorize the inspection of all improvements by the city engineer and provide for reimbursement to the city of all costs of inspection.
3. Indemnify of the city, its officials, employees and agents, from and against all claims of any nature arising or resulting from the failure of the developer to comply with any requirement of such agreement.
4. Ensure compliance with conditions required by the city in approving the final plat prior to completion of all required improvements.

D. Financial Assurances. A developer that enters into an improvement agreement shall provide financial assurances in the form of one or both of the following:

1. A surety bond executed by a surety company authorized to transact business in the State of Oregon and in a form satisfactory to the city attorney, or
2. An irrevocable letter of credit in a form satisfactory to the city attorney, or
3. A cashier's check or money order from a bank or similar lending institution.

E. Amount of Security. The financial assurances shall be in an amount equal to 150% of the amount determined by the city engineer as sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses. The financial assurances may provide for reduction of the amount in increments as improvements are completed and approved by the city engineer. However, the number of reductions or disbursements and the amount of retainage required shall be at the discretion of the city engineer.

F. Post Completion Financial Assurances. On acceptance of all improvements by the city, the amount of the security shall be reduced to 20% of the original sum and shall remain in effect until the expiration of the one year warranty period. All deficiencies in construction and maintenance discovered and brought to the attention of the developer and surety within one year of acceptance must be corrected to the satisfaction of the city engineer. The developer may substitute a new warranty bond rather than amending the original performance bond or letter of credit.

G. Acceptance of Improvements by City, Guarantee. The city will accept public improvements only if they have received final inspection approval by the city engineer and "as constructed" engineering plans have been received and accepted by the city engineer. The developer shall warrant all public

improvements and repairs for a period of one year after acceptance by the city.

H. Phased Developments. For a phased development, final plats may be submitted consistent with any phasing plan approved at the time of tentative plan approval.

I. Procedure and Standard for Approval of a Final Plat. On receipt of the final plat application, the Community Development Director shall have up to 30 days to review and determine if the application is complete. If the application is not complete, it shall be returned to the applicant with a written explanation of why the application is being returned. If complete, the application shall be accepted.

The Community Development Director shall forward the final plat to the City Engineer for comment. The City Engineer shall have 20 days to comment on the final plat. Comments shall be in writing. After the 20-day comment period, the Community Development Director shall decide whether the final plat complies with the following criteria:

1. The final plat is in substantial compliance with the tentative plan.
2. The required improvements have been completed.
3. The final plat complies with all conditions attached to the tentative plan.
4. Planned public facilities that were relied on to comply with Section 13.05.045 at the time of tentative plan approval have been completed and are available for use.

If the final plat is approved, the plat shall be forwarded to the Planning Commission chair for signature. If the final plat is denied, the applicant shall be notified in writing why the final plat was denied and what items need to

be corrected before the final plat can be approved.

J. Recording of Final Plat. After final approval, the final plat shall be forwarded to Lincoln County for review and recording as required by law. Within 90 days of approval, the developer shall submit to the city a mylar copy and two paper copies of the recorded final plat.

Staff: Chapter 13.05, Land Divisions, consolidated as new Chapter 14.48. Duplicative procedural provisions have not been carried over, and have been consolidated into Chapter 14.52 where appropriate. Changes are generally consistent with Reference 15, of Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Added cashier's checks or money orders as acceptable financial guarantees under Subsection 14.48.060(D).

CHAPTER 14.49 PROPERTY LINE ADJUSTMENTS

14.49.010 Property Line Adjustment

The City of Newport hereby establishes a procedure for the adjustment of property lines. A procedure carried out pursuant to this chapter shall be known and referred to as a "property line adjustment."

14.49.020 Approval Criteria

A property line adjustment may be utilized, as an alternative to partition or replatting procedures, under the following circumstances:

- A. The size, shape or configuration of two existing units (lots or parcels) of land, each of which is a legal lot or parcel, is to be modified by the relocation of a common boundary between the parcels; and
- B. An additional unit of land is not created; and
- C. If an existing unit of land is reduced in size by the adjustment, that unit of land will comply with the requirements of any applicable ordinance, and none of the units of land existing after the adjustment will be in nonconformity with any applicable zoning or other requirement of the City of Newport to a greater extent than prior to the adjustment.

14.49.030 City Approval Required

No lot line adjustment shall be undertaken without the prior approval of the City of Newport. Any person desiring to carry out such a property line adjustment shall submit to the Planning Director of the City of Newport an application, together with such fee as the Common Council of the City of Newport may from time-to-time by resolution determine. The lot line adjustment application shall be upon such form as shall be approved by the planning director, and shall include at least the following information:

- A. A legal description (by lot and block or by metes and bounds) of the units of land as they exist prior to the proposed boundary line adjustment.

B. A map (a tax map, survey, or equivalent) depicting the configuration of the units of land as they exist prior to the adjustment.

C. A similar map showing the configuration of the lots, as they would exist after the proposed adjustment.

D. Legal description of the parcels as they would exist after the proposed adjustment.

14.49.040 Conveyance and Security

Following such approval, the property line adjustment may be carried out in the following manner.

A. The owners of the property involved in the lot line adjustment shall prepare a conveyance or conveyances in accordance with ORS 92.190(4), containing the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgement. The parties shall thereupon attach a certificate of the City of Newport setting forth its approval of the property line adjustment, in accordance with the provisions of this ordinance, and record the property line adjustment deed and such certificate and the survey, if any, required by ORS 92.060(7) with the Lincoln County Clerk, in the manner provided in ORS 92.190(3).

B. The parties shall obtain a survey of the adjusted property line, and the same shall be monumented, and the survey shall be filed with the county surveyor, as required by ORS 92.060(7), except as follows:

1. Such survey and monumentation shall not be required when both parcels affected are greater than 10 acres in size.

2. The requirements of such survey and monumentation shall not apply to the relocation of a common boundary of a lot in a subdivision or a parcel in a partition when the adjusted property line is a distance of even width along the common boundary.

14.49.050 Responsibility

No property line adjustment shall be effective except upon compliance with the terms, provisions and requirements of this ordinance. The City of Newport does not hereby assume any responsibility to verify or ascertain the ownership of any property or the accuracy of any map, survey or legal description or other information or material submitted to it in connection with this procedure, or to ascertain the adequacy of the form of any property line adjustment deed or other document utilized by party pursuant to this procedure. Any approval granted under the terms and provisions of this ordinance shall be no greater than permitted under the provisions of ORS 92.190 and other applicable statutes, and all actions pursuant to this ordinance shall be subject to the authority and provisions of the laws of the State of Oregon.

Staff: Language was previously included in NMC Chapter 13.99. Moved to this location. No changes to language otherwise. Revision is consistent with Reference 15, Tech Memo #12, by Angelo Planning Group, dated 12/8/21.

CHAPTER 14.4650 TSUNAMI HAZARDS OVERLAY ZONE

14.4650.010 Purpose

The purpose of this section is to promote the public health, safety, and general welfare to minimize risks to essential facilities, and special occupancy structures serving high risk populations within a tsunami inundation area, consistent with Statewide Planning Goals 7 and 18, and the Natural Features Section of the Newport Comprehensive Plan.

14.4650.020 Definitions

As used in this chapter:

- A. Hazardous facility means structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released. Such facilities are subject to a high hazard (Group H) occupancy classification by the Oregon Structural Specialty Code.
- B. Tsunami inundation area means those portions of the City of Newport within the “XXL” tsunami inundation area boundary, as depicted on the maps titled “Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport North, Oregon” and “Local Source (Cascadia Subduction Zone) Tsunami Inundation Map Newport South, Oregon” produced by the Oregon Department of Geology and Mineral Industries (DOGAMI), dated February 8, 2013.
- C. Vertical evacuation structure means a stand-alone structure, portion of a building or constructed earthen mound designed for vertical evacuation from a tsunami that is accessible to evacuees, has sufficient height to place evacuees above the design level of tsunami inundation, and is designed and constructed with the strength and resiliency needed to withstand the effects of tsunami waves.

14.4650.030 Overlay Zone Established

A Tsunami Hazards Overlay Zone District shall be indicated on the Zoning Map of the City of Newport with

the letters of THOZ, the boundaries of which encompass and conform to the tsunami inundation area.

14.4650.040 Relationship to Underlying Zone Districts

Except for the prohibited uses set forth in section [14.46.050](#), all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this chapter.

14.4650.050 Prohibited Uses

A. Unless authorized in accordance with section [14.46.060](#), the following uses are prohibited in the Tsunami Hazard Overlay Zone:

1. Hospitals and other medical facilities having surgery and emergency treatment areas;
2. Fire and police stations;
3. Emergency vehicle shelters and garages;
4. Structures and equipment in emergency preparedness centers;
5. Standby power generating equipment for essential facilities;
6. Structures and equipment in government communication centers and other facilities required for emergency response;
7. Medical, assisted, and senior living facilities with resident incapacitated patients. This includes residential facilities, but not residential care homes, as defined in ORS 443.400;
8. Jails and detention facilities;
9. Day care facilities;
10. Hazardous facilities; and
11. Tanks or other structures used for fire suppression purposes to protect uses listed in this sub-section.

B. Unless authorized in accordance with section [14.46.060](#), the following uses are prohibited in the portions of the Tsunami Hazard Overlay Zone subject to inundation from a Small (S) or Medium (M) magnitude local source tsunami event:

1. Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level;
2. Child care facilities;
3. Buildings for colleges or adult education schools with a capacity greater than 500 persons; and
4. Tanks or other structures used for fire suppression purposes to protect uses listed in this sub-section.

C. The provisions of this section do not apply to water-dependent and water-related facilities, including but not limited to docks, wharves, piers and marinas.

[14.4650.060](#) Use Exceptions

A use listed in section [14.4650.050](#) may be permitted upon authorization of a Use Exception issued in accordance with a Type III decision-making procedure as outlined in Chapter 14.52, Procedural Requirements, provided the following requirements are satisfied:

- A. Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.
- B. Fire or police stations may be permitted upon findings that there is a need for a strategic location.
- C. Uses otherwise prohibited, such as child or day care facilities, are allowed when accessory to a permitted use, provided a plan is submitted outlining the steps that will be taken to evacuate occupants to designated assembly areas.

D. Other uses prohibited section [14.4650.050](#) may be permitted upon the following findings:

1. There are no reasonable, lower-risk alternative sites available for the proposed use; and
2. Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized; and
1. The structures will be designed and constructed in a manner to minimize the risk of structural failure during the design earthquake and tsunami event.

[14.4650.070](#) Vertical Evacuation Structures

All vertical evacuation structures, irrespective of their height, shall adhere to the provisions set forth in NMC 14.10.020(D)(1-4).

[14.4650.080](#) Evacuation Route Improvement Requirements

All new, or substantial improvements to, multifamily residential, commercial, industrial or institutional development on existing lots and parcels and land divisions in the Tsunami Hazard Overlay Zone shall:

- A. Provide all-weather pedestrian access from the building(s) to adjacent public rights-of-way or City designated evacuation routes; and
- B. Install wayfinding signage, in a format and location approved by the City, indicating the direction and location of the closest evacuation routes; and
- C. Post emergency evacuation information in public areas, meeting rooms, or common areas, alerting residents, visitors, and employees to the tsunami threat. Such information shall include a map indicating the direction and location of the closest evacuation route.

Staff: Chapter renumbered as a result of a reordering of the chapter. No substantive changes.

CHAPTER 14.52 PROCEDURAL REQUIREMENTS

14.52.010 Purpose

The purpose of this section is to designate and define the responsibilities of the approving authorities and to set forth the procedural requirements for land use actions requiring public notice before or after the decision.

14.52.020 Description of Land Use Actions/Decision-Making Procedures

The following is a description of four general types of land use actions/decision-making procedures utilized for land use and limited land use decisions within the City of Newport:

- A. Type I Land Use Actions. Type I decisions are generally made by the Community Development Director without public notice prior to the decision and without a public hearing. A notice of the decision and opportunity to appeal is provided. Type I decisions involve limited administrative discretion. An example of a Type I action is an estuarine review. An appeal of a Type I decision is heard by the Planning Commission.
- B. Type II Land Use Actions. Type II decisions are generally made by the Community Development Director with public notice and an opportunity to comment but without a public hearing. Type II decisions involve administrative discretion in the application of criteria but usually involve land use actions with limited impacts or involve limited land use decisions. Examples of Type II actions include Conditional Use Permits that generate less than 50 vehicle trips per day and involve property that is less than an acre in size, Property Line Adjustments, Minor Partitions, and Minor Replats. An appeal of a Type II decision by the Community Development Director is heard by the Planning Commission, and an appeal of a Type II decision by the Planning Commission is heard by the City Council.
- C. Type III Land Use Actions. Type III decisions are considered quasi-judicial land use actions and generally are made by the Planning Commission after public notice and a public hearing. Type III

decisions generally use discretionary criteria or involve land use actions with larger impacts than those reviewed under a Type I or Type II procedure. Examples of Type III actions include Conditional Use Permits that generate more than 50 trips per day, variances, preliminary and final planned development applications, interpretation requests, and tentative subdivision plat applications. An appeal of a Type III permit decision is heard by the City Council.

- D. Type IV Land Use Actions. Type IV decisions are made by the City Council as either quasi-judicial or legislative decisions involving land use action such as urban growth boundary amendments, Comprehensive Plan map/text amendments, Zoning map/text amendments, annexation requests, planned destination resorts conceptual master plans, and street/plat vacations for which an ordinance must be adopted by the City Council. Most Type IV decisions require a public hearing and recommendation by the Planning Commission prior to the City Council public hearing.

14.52.030 Approving Authorities

The approving authority for the various land use actions shall be as follows:

- A. City Council. A public hearing before the Council is required for all land use actions identified below. Items with an “*” require a public hearing and recommendation from the Planning Commission prior to a City Council hearing.
1. Annexations*.
 2. Comprehensive Plan amendments (text or map)*.
 3. Planned destination resorts--conceptual master plans*.
 4. Urban growth boundary amendments*.
 5. Vacations (plat or street)*.

6. Withdrawals of territory (public hearing required).

7. Zone Ordinance amendments (text or map)*.

8. Any other land use action defined in ordinance as a Type IV decision*.

9. Any land use action seeking to modify any action or conditions on actions above previously approved by the City Council where no other modification process is identified.

10. Appeals of a Planning Commission action.

B. Planning Commission. A public hearing before the Commission is required for all land use actions identified below. Items with an “*” are subject to Planning Commission review as defined in the section of the ordinance containing the standards for that particular type of land use action. Planning Commission decisions may be appealed to the City Council.

1. Conditional use permits*.

2. Nonconforming use changes or expansions*.

3. Planned destination resorts - preliminary and final development plans*.

4. Planned developments.

5. Subdivisions (tentative subdivision plat).

6. Variances.

7. Adjustments*.

8. Design review*.

9. Interpretations of provisions of the Comprehensive Plan or Zoning Ordinance that require factual, policy, or legal discretion.

10. Any land use action defined as a Type III decision.

11. Any land use action defined as a Type II decision for which the Planning Commission is the initial approving authority.
 12. Any land use action seeking to modify any action or conditions on actions above previously approved by the Planning Commission where no other modification process is identified.
 13. Appeal of the Community Development Director decision under a Type I or Type II decision.
- C. Community Development Director. Land use actions decided by the Director are identified below. A public hearing is not required prior to a decision being rendered. Items with an “*” are subject to Director review as defined in the section of the ordinance containing the standards for that particular type of land use action. Decisions made by the Community Development Director may be appealed to the Planning Commission.
1. Conditional use permits*.
 2. Partitions, minor.
 3. Replats, minor.
 4. Estuarine review.
 5. Adjustments*.
 6. Nonconforming use changes or expansions*.
 7. Design review*.
 8. Ocean shorelands review.
9. Any land use action defined as a Type I or Type II decision for which the Community Development Director is the initial approving authority.
 10. Any land use action seeking to modify any action or conditions on actions above previously approved by the Community Development

Director where no other modification process is identified.

14.52.040 Application for a Land Use Action

All requests for land use actions shall be on forms prescribed by the city. The Community Development Department prepares the application forms and, from time to time, amends the forms as the need arises. At a minimum, the application shall require the following:

- A. Name and address of the applicant.
- B. Name and address of the property owner, if different and applicable.
- C. Legal description of the property, if applicable.
- D. A site plan drawn to scale, if applicable, which shows dimension, property lines, existing buildings, and/or the proposed development.
- E. A Lincoln County Assessor's map showing the subject property and the notification area, if applicable.
- F. Street address of the subject property, if applicable.
- G. Names and addresses of property owners within the notification area, if applicable, as shown in the records of the county assessor.
- H. Signature blocks for the applicant and property owner, if different and applicable.
- I. Comprehensive plan and zoning designation of the subject property, if applicable.
- J. Findings of fact and other information that support the request and address all the applicable criteria.
- K. A current list of the site addresses of any structure in the area proposed to be annexed, if applicable.
- L. Any other information as identified by ordinance for the applicable type of land use action.

14.52.045 Pre-Application Conferences

A. Purpose and Intent. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Development Code and to identify issues likely to arise in processing an application. Pre-application conferences shall be conducted by the Community Development Director and/or his or her designee and shall include other city officials and public agency representatives as may be necessary for preliminary staff review of the proposal and to provide guidance to the applicant.

B. Applicability. A pre-application conference with the City of Newport is required for Type III, and Type IV applications and other permit types as specified, unless waived by the Community Development Director.

C. Pre-application Materials. The applicant is requested to provide the following materials prior to the pre-application conference.

1. Location and conceptual site plan of the proposed development.
2. List of questions for staff

Staff: Added per Reference 4, Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Proposed language includes Type I and II permits in only those cases where a pre-application meeting is called out as required for the specific permit type.

14.52.050 Submittal of Applications

A property owner, any person with the written approval of the property owner, or the city manager, may apply for a land use action. All documents or evidence in the file on an application shall be available to the public.

A. Not later than 30 calendar days after receipt, the Community Development Director or designate shall determine whether or not the applicant is complete and notify the applicant in writing of what information is missing and allow the applicant to submit the missing information. If the Community Development

Director or designate does not make a determination of an incomplete application within 30 days after receipt, the application is deemed complete. Complete applications shall be accepted and processed. If an application is deemed incomplete, the application shall be deemed complete upon receipt by the Community Development Department of:

1. All of the missing information;
 2. Some of the missing information and written notice that no other information will be provided; or
 3. Written notice that none of the missing information will be provided.
- B. The completeness determination is not a review of the merit of the application and a positive completeness determination is not a conclusion that the application can be approved.
- C. On the 181st calendar day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under subsection A above and has not submitted:
1. All of the missing information;
 2. Some of the missing information and written notice that no other information will be provided; or
 3. Written notice that none of the missing information will be provided.
- D. For applications subject to ORS 227.178, if the application was complete when first submitted, or if the applicant submits the requested information within 180 calendar days of the date the application was first submitted, approval or denial of the application shall be based on the standards and criteria that were applicable at the time the application was first submitted.

- E. For applications subject to ORS 227.178, the 100 and 120 day rules as specified in ORS 227.178 shall be applicable.

14.52.060 Notice

The notification requirements in general for the various types of land use actions are identified below. The applicant shall provide city staff with the required names and addresses for notice. Notice of hearings to individual property owners is not required for Type IV legislative actions unless required by state law, such as ORS 227.186 (notice to owners whose property is rezoned). These notification requirements are in addition to any other notice requirements imposed by state law or city ordinance.

A. Information Required in all Notices of Actions and Hearings:

1. Name of applicant and property owner (if different), and file number.
2. Location of property (if applicable).
3. Date, time, and location for public hearing (for all hearings).
4. A brief summary of the nature and substance of the application or decision.
5. A list of applicable Newport Ordinance and/or Comprehensive Plan standards and where the applicable criteria may be found.
6. A statement that relevant information (decision, staff report, application or other materials) may be reviewed and providing information about where and when they can be reviewed, and a statement that copies are available at cost).
7. Staff contact information, including name, address, and phone number.
8. Date the notice is mailed.

B. Information Required in Specific Notices:

1. Date of decision (for Type I actions).
2. A statement describing the process and the deadline for filing comments (for Type II actions).
3. A statement that the failure to raise an issue with sufficient specificity to allow the decision maker an opportunity to respond to the issue precludes raising the issue on appeal, including an appeal to the Land Use Board of Appeals (for Type II and III and quasi-judicial Type IV actions).
4. Date, time, and location of the hearing (all hearing notices).
5. A statement that the staff report will be available for view at no cost and that copies will be available at a reasonable cost at least seven days before the hearing (Type III and Type IV quasi-judicial actions).
6. A general description of the hearing process, including the process for submitting written materials (Type III and IV decisions).
7. An explanation of the use or uses that could be authorized by the decision (Type IV decisions).

C. Mailing of Notice. Notices of hearings and actions shall be mailed by first class mail at least 14 days prior to the deadline for providing testimony for Type II decisions and at least 20 days prior to the public hearing for Type III and Type IV quasi-judicial actions. Notices shall be mailed to:

1. The applicant and property owner (if different).
2. Any affected public agency including ODOT and Lincoln County Transit, or public/private utility.
3. Any person who has requested notice of the hearing or action in writing.

4. Any officially recognized neighborhood association whose boundaries include the subject property.
5. Record owners of property (as specified in the most recent Lincoln County Assessor's property tax assessment roll):
 - a. Within 200 feet of the subject property (Type I, Type II, and Type III actions).
 - b. Within 300 feet of the subject property (Type IV quasi-judicial actions).

Staff: Added per Reference 4, Tech Memo #12, by Angelo Planning Group, dated 12/8/21. Proposed language does not include Type II actions.

- D. Written Notice for Rezoning of Mobile Home or Manufactured Dwelling Park. If an application would change the zone of property that includes all or part of a mobile home or manufactured dwelling park, written notice by first class mail shall be given to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least 20 days, but not more than 40 days, before the date of the first hearing on the application.
- E. Written Notice to Airport Owners. Notice of a public hearing on a zone use application shall also be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if:
 1. The name and address of the airport owner has been provided by the Aeronautics Division of the Department of Transportation to the City Community (Planning) Department; and
 2. The property subject to the zone use hearing is:
 - a. Within 5,000 feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport," or
 - b. Within 10,000 feet of the side or end of the runway of an airport determined by the

Department of Transportation to be an “instrument airport.”

3. Notice of a zone use hearing need not be provided if the permit or zone change would only allow a structure less than 35 feet in height, and the property is located outside of the runway “approach surface” as defined by the Department of Transportation.

- F. Published Notice. Notice of each Type III and Type IV hearing shall be published at least once in a newspaper of general circulation in the city at least 5 days, and no more than 14 days, prior to the date set for public hearing.

14.52.070 Staff Reports

Staff reports on any quasi-judicial land use action shall be available for public inspection at least seven (7) days prior to the date set for public hearing, and copies will be provided at the city's rate for photocopies.

14.52.080 Hearings Procedures (Quasi-Judicial/Limited Land Use)

This section shall govern the conduct of quasi-judicial/limited land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of quasi-judicial and limited land use hearings and may be supplemented by any duly adopted rules of procedure.

- A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a land use action, is acting in a quasi-judicial capacity, and all hearings shall be conducted accordingly. Parties to the hearing are entitled to an opportunity to be heard, to present and rebut evidence, and to have a decision based on evidence supported by findings of fact and supporting information. Testimony shall be made with sufficient specificity so as to afford the approving authority and other parties an adequate opportunity to respond to each issue.
- B. Disqualification, Ex Parte Contacts, Bias, Challenges to Participation. Proponents and opponents are

entitled to an impartial tribunal that judge land use actions. A proponent or opponent may, therefore, challenge the qualifications of a member of the approving authority to participate in the meeting or decision. A challenge must state with sufficient specificity the facts relied upon by the submitting party relating the person's bias, prejudgment, personal interest, or other facts from which the party has concluded that the member of the approving authority may be unable to participate and make a decision in an impartial manner. Challenges shall be incorporated into the record of the meeting.

1. Disqualification. No member of the approving authority shall participate in discussion of an application or vote on an application for any land use action when any of the following conditions exist:
 - a. Any of the following have a direct or substantial financial interest in the proposal: members of the approving authority or a member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, or household, or there is an actual conflict of interest under state law.
 - b. The land use action involves a business in which the member is directly associated or has served within the past two (2) years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
 - c. The member owns property within the area entitled to receive notice of the action.
 - d. For any other reason, the member has determined that participation in the decision cannot be in an impartial manner.
2. Disclosure of Potential Conflict of Interest. Even if an approval authority member chooses to participate, the member shall disclose any potential conflict of interest as required by state law.

3. Ex parte Contacts. In quasi-judicial matters, approving authority members shall reveal any ex parte contacts, including site visits. Parties to a hearing shall have the right to rebut the substance of an ex parte contact.
4. Challenges. Any person may challenge the participation of a member of the approving authority in a decision-making process. A challenge must state with sufficient specificity the factual and legal basis of the reasons for the challenge.
5. Rights of Disqualified Members of the Approving Authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum. A member who represents personal interest at a meeting may do so only by abstaining from voting on the proposal, vacating the seat on the approving authority, and physically joining the audience, and by making full disclosure of his or her status and position at the time of addressing the approving authority.
6. Requalification of Disqualified Members of the Approving Authority. If all members of the approving authority abstain or are disqualified, all members present, after stating their reasons for abstention or disqualification, shall by doing so be requalified unless prohibited by state law and proceed to hear the issues and make a decision.
7. Participation in Decision by Absent Member of Approving Authority. A member of the approving authority absent during the presentation of evidence in a land use action meeting may not participate in the deliberations or final decision regarding the matter of the meeting unless the member has reviewed all the evidence in the record to date, including audio tapes of prior meetings.
8. Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a meeting at which there is scheduled a consideration of a land use action, the land use

action shall be automatically set over to the next regularly-scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.

9. Failure to Make a Final Decision on a Quasi-Judicial Land Use Action, Limited Land Use Action, or on Appeal. In the event an approving authority other than the City Council is not able to make a final decision on a quasi-judicial land use action within three meetings after the hearing or record is closed, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public or appeal hearing held. In the event that an approving authority other than the City Council becomes deadlocked through an even split in the approving authority such that a decision cannot be made, the approving authority shall forward the land use action to the next higher review authority for a new public or appeal hearing.

C. Public Hearing. This subsection shall govern the conduct of all public hearings.

1. Nature of Hearing. All parties participating in a public hearing shall have an opportunity to be heard, to present and rebut evidence, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law. The presiding officer of the approving authority shall have authority to:
 - a. Regulate the course and decorum of the meeting.
 - b. Dispose of procedural requests and similar matters.
 - c. Impose reasonable limitations on the number of witnesses heard and set reasonable time

limits for oral presentation, questions, and rebuttal testimony.

- d. Question any person appearing, and allow other members to question any such person.
- e. Waive the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party substantial rights as provided herein or otherwise by law.
- f. Take such other action as authorized by the approving authority to appropriately conduct the hearing.

A ruling of the presiding officer may be challenged by any member of that approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

- 2. Conduct of Participants. Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or may exclude from the hearing anyone who:
 - a. Is disorderly, abusive, or disruptive.
 - b. Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing.
 - c. Testifies without first receiving recognition from the presiding officer.
 - d. Presents irrelevant, immaterial, or repetitious evidence.
- 3. Order of Procedure. The hearing shall proceed in the following manner:
 - a. Open Public Hearing. The presiding officer shall open the public hearing and announce the nature and purpose of the hearing, identify

the applicant, describe the general nature of the proposal, and state (or defer to staff to state) the applicable substantive criteria by which the application is being judged. The presiding officer shall also state that testimony and evidence must be directed toward the applicable criteria. In addition, for quasi-judicial land use actions or limited land use actions, the presiding officer shall state that failure to raise an issue with sufficient specificity to afford the approving authority and the parties an opportunity to respond to the issue precludes an appeal based on that issue, including to the Land Use Board of Appeals.

- b. Call for Abstentions. The presiding officer shall call for any conflicts of interest, and, if applicable, ex parte contacts, or site visits by members of the approving authority.
- c. Call for Objections. The presiding officer shall call for any objections to the approving authority hearing the matter before it.
- d. Staff Report. Staff present a staff report and any recommendations.
- e. Proponents' Presentation. The presiding officer shall call for testimony from the applicant and from any person supporting the application.
- f. Opponents' Presentation. The presiding officer shall call for testimony from any person objecting to the application.
- g. Rebuttal by Applicant. The presiding officer shall call for rebuttal from the applicant in response to evidence or issues raised by the opponents.
- h. Continuance. Review authorities may continue a public hearing or leave a record open to allow for additional testimony. In a quasi-judicial or limited land use action, prior to the conclusion of the initial evidentiary

hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. If the request is made prior to the conclusion of the initial evidentiary hearing, the review authority shall grant the request by either continuing the public hearing or leaving the record open in conformance with the requirements of ORS 197.763.

- i. Close Public Hearing. Unless there is a continuance, the presiding officer shall close the public hearing and state that no further testimony will be received by the approving authority.
- j. Deliberation by Approving Authority. The approving authority shall consider the testimony and evidence before it in open discussion. The approving authority may ask questions of staff. The approving authority may ask proponents or opponents for clarification on a matter; but if they choose to do so, others must be given opportunity to rebut.
- k. Decision. Following deliberation, the approving authority shall vote on the matter, including on any conditions of approval to be attached (or in the case of a review and recommendation, any recommended conditions of approval).
- l. Adoption of Findings of Fact. The approving authority shall adopt findings of fact that support their decision. If there are no findings available to support their decision, staff may prepare findings of fact to be presented at a future meeting. The approving authority may also call for the preparation of findings of fact by the proponent or opponent, or any combination, including staff, of each to be presented at a future meeting. The approving authority may also request that findings of fact be presented at a future meeting other than the next regularly-scheduled meeting. For hearings that are for a review and

recommendation only, no findings of fact are required.

- m. Final Decision. The decision of the approving authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required.
- n. Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - i. Anyone who has made appearance of record (see [Section 14.39.045](#)); and
 - ii. Anyone who has filed a written request for notice of the approving authority's decision; and
 - iii. Anyone who has requested notice of any appeal hearing.

14.52.090 Public Hearings Procedures (Legislative)

This section shall govern the conduct of legislative land use hearings. The following public hearing procedures are the minimum procedures for use in conduct of legislative land use hearings and may be supplemented by any duly adopted rules of procedure.

- A. Nature and General Conduct of Hearing. The approving authority, in conducting a hearing involving a legislative land use action, is acting in a legislative capacity, and all hearings shall be conducted accordingly.
- B. Disqualification. No member of the approving authority shall participate in discussion of an application or vote on an application for any land use action when there exists an actual conflict of interest under state law. Potential conflicts of interest under

state law shall be disclosed by members of the approving authority. An abstaining or disqualified member of the approving authority shall be counted if present for purposes of forming a quorum.

- C. Failure to Achieve Meeting Quorum. In the event an approving authority is not able to achieve a quorum for a meeting at which there is scheduled a consideration of a land use action, the land use action shall be automatically set over to the next regularly-scheduled approving authority meeting. In the event that an approving authority other than the City Council is unable to achieve quorum for two consecutive meetings, the land use action shall be scheduled for a public hearing before the next level of approving authority and shall be renoticed and a new public hearing held.
- D. Public Hearing. The public hearing process identified above in [14.52.080\(C\)](#) for quasi-judicial/limited land use hearings shall be utilized with the following modifications noted for the legislative hearing process to the following subsections of [14.52.080\(C\)\(3\)](#):
 - 1. Final Decision. The decision of the approving authority is final when reduced to writing and signed by the presiding officer of the approving authority. Final decisions shall be by order unless an ordinance is required for the decision. Appeal periods shall begin from the date the final decision is signed. For hearings that are for a review and recommendation only, no final order is required. Unless required by law to do so, the approving authority is not obligated to adopt a final order or ordinance if the approving authority chooses not to adopt a legislative amendment.
 - 2. Notice of Decision. A notice of the decision (except for those made for the purpose of a review and recommendation only) made by the approving authority shall be given to:
 - a. Anyone who has made appearance of record (see [Section 14.52.080\(B\)](#)) and submitted a written request for a notice of decision; and

- b. Anyone who has filed a written request for notice of the approving authority's decision.
- c. The Department of Land Conservation and Development as required for a post acknowledgement plan amendment.

14.52.100 Appeals

Any person with standing may appeal a decision of the approving authority. No person shall have standing to appeal unless the person made an appearance of record in the initial proceeding prior to the close of the public comment period, public hearing, or close of the record. All appeals shall be made no later than 15 calendar days after the date the final order is signed. "Appearance of record" shall mean either appearance in person or in writing. City Council decisions may be appealed to the Oregon Land Use Board of Appeals as provided by state law.

- A. Appeal Document. All appeals shall be signed by the appellant or authorized agent and shall contain:
 - 1. An identification of the decision sought to be reviewed, including the date of the decision.
 - 2. A statement demonstrating that the appellant has standing to appeal.
 - 3. A statement of the specific grounds which the appellant relies on as the basis for the appeal. If the appellant contends that the findings of fact made by the approving authority are incorrect or incomplete, the application shall specify the factual matters omitted or disputed. If the appellant contends that the decision is contrary to city code, an ordinance statute, or other law, the appeal shall identify the city code, an ordinance, statute, or other legal provision, and state how the applicable provision has been violated. For appeals of a quasi-judicial or limited land use action, a statement demonstrating that the appeal issues were raised with sufficient specificity in the hearing below.

B. Scope of Review. Unless the appeal is heard de novo, the appeal of a decision by a person with standing shall be limited to the specific issues raised during the hearing from which the decision is being appealed. Approving authorities may hear appeals on the record of the initial hearing (if a previous hearing was held) or de novo. An appeal from a land use action that had a previous hearing shall be held on the record unless the approving authority determines that a de novo hearing is warranted.

1. When de novo hearing is warranted.

- a. Where a land use decision was made without a public hearing, the appeal shall be heard de novo.
- b. Where a land use decision was made following a public hearing, the approving authority may consider holding the appeal de novo for any of the following reasons:
 - i. (The appellant(s) have documented as part of a petition to appeal a significant procedural error that resulted in a substantive harm to their ability to participate in the initial hearing that could be cured by a subsequent de novo hearing.
 - ii. The appeal of the decision is part of a package of land use requests submitted by the applicant that include other land use requests that will be considered in a new public hearing before the review authority, and it would be more efficient to conduct the appeal de novo in conjunction with the hearings for the other land use requests.
 - iii. A significant number of appeals have been filed such that the efficiency of the appeal process would be better served through a de novo hearing.

2. Procedure for determining when de novo hearing is warranted on appeal from a land use decision made following a public hearing:

- a. Following the end of the appeal period for which an appeal has been filed with a request for a de novo hearing, the matter of the de novo appeal hearing request shall be scheduled at the next available approving authority meeting for consideration.
 - b. The appeal authority shall review the submitted request for de novo hearing along with any staff and applicant (if other than appellant) input on the matter and make a decision.
- C. Notice of Appeal. Notice of the appeal hearing shall be given to the applicant, the applicant's authorized agent (if any), and to interested persons. Interested persons are:
 1. Anyone who has made appearance of record.
 2. Anyone who has filed a written request for notice of the approving authority's decision; and
 3. Anyone who has requested notice of any appeal hearing.
- D. Appeal Hearings. The following is a minimum set of procedures supplemented by any duly adopted rules of procedure:
 1. Appeal hearings on the record shall be conducted as follows:
 - a. A record of hearing shall be prepared by the Community Development Department containing the written material involving the approval through the filing of the appeal. A transcript of the hearing shall be prepared and included with the record.
 - b. Following preparation of the record, a date for the on-the-record hearing shall be set by the Community Development Department, and notice of the date of the appeal hearing shall be given.

- c. The appellant(s) shall have seven calendar days from the date the record is available to supplement the petition for appeal by identifying items in the record in support of the appeal (“support brief”).
 - d. The applicant(s) (if other than the appellant) and city staff shall have seven calendar days from the date the appellant support brief is due to respond (“response brief”).
 - e. The appeal hearing will allow for comments by city staff, argument from appellant(s), applicant(s) (if other than appellant), rebuttal, and questions and deliberation by the approving authority.
 2. De novo appeal hearings may be held by the appeals approving authority. In cases of a de novo hearing, the same procedure shall be used as was employed in the initial hearing.
 3. Ability for City Council to deny appeal without hearing. The City Council may deny an appeal from a Planning Commission decision where the Planning Commission has held a de novo hearing following an appeal of a decision of the Community Development Director for land use actions subject to the 120-day rule in ORS 227.178. If the City Council votes to deny an appeal, the Council shall adopt the Planning Commission Final Order as the final decision of the City.
- E. Appeals Decision. Upon review of the appeal, the appeals approving authority may, by final order, affirm, reverse, or modify in whole or part the initial decision. When the appeals approving authority modifies or reverses a decision of the initial approving authority, the final order shall set forth findings and reasons for the change. The appeals approving authority may also remand the matter back to the initial approving authority for further consideration or clarification. A notice of the decision made by the approving authority shall be given to:
1. Anyone who has made appearance of record; and

2. Anyone who has filed a written request for notice of the approving authority's decision; and
3. Anyone who has requested notice of any appeal hearing.

F. Judicial Finality. No permit shall be issued, no permit or approval shall be considered valid, and no project may proceed, based on any land use decision of the City of Newport for a land use action processed under this section of the Ordinance, until such time as all rights of appeal from such decision have been exhausted and such decision is "judicially final." A decision shall be considered judicially final at such time as any applicable period for the appeal of such decision shall have expired without initiation of an appeal, or any properly initiated appeal shall have been exhausted, whichever is later. However, this shall not preclude the making of an application for, or the conduct of proceedings to consider, the issuance of a permit or approval based on such land use decision.

14.52.110 Decision Time

Once a complete application is received by the City of Newport, the city shall take final action, including resolution of all local appeals, on applications subject to ORS 227.178 within 100 or 120 days, as applicable, unless otherwise waived by the applicant in accordance with state requirements.

14.52.120 Conditions of Approval

All city decision makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be met.

14.52.130 Consolidated Procedure

Any applicant for a land use action may apply at one time for all related land use actions. Where different land use actions requiring different review authorities are submitted, decisions on applications made by a lower level review authority may be made contingent on the applicant receiving approval from the higher level review

authority. Alternatively, the higher level reviewing authority may take action on all of the related land use actions. Fees for land use actions that are consolidated are set forth as established by resolution of the City Council for land use fees.

14.52.140 Expiration and Extension of Decision

Expiration or extension of all land use decisions shall be as follows:

- A. All land use decisions shall be void if within ~~eighteen~~ twenty-four (24) months of the date of the final decision:
 1. All necessary building permit(s) have not been issued, if required; or
 2. ~~In cases where building permit(s) are not required, the~~ authorized use has been established; ~~or,~~
 3. In cases where a final plat is required, the final plat has not been signed by the City and referred for recording.
- B. Notwithstanding Subsection (A) of this section, the approval authority may set forth in the written decision specific instances or time periods when a permit expires.
- C. The Community Development Department may extend any approved decision for a period of ~~six~~ twelve (12) months; provided the permit holder
 1. Submits a written request for an extension of time prior to expiration of the approval period;
 2. ~~Has applied for all necessary additional approvals or permits required as a condition of the land use permit;~~
 3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

D. The Planning Commission may grant an additional twelve (12) month extension after public hearing. Notice shall be the same as the original tentative plan. The criteria for an extension are:

1. An unforeseen change in the economic condition has affected the real estate market for the project; or
2. The weather has prevented the physical work; or
3. Other unanticipated hardship, such as change or turnover in engineering firms, contractors, or significant delays in obtaining required state or federal permits requires additional time to complete the project.
4. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.

~~DE~~. The granting of an extension pursuant to this section is an administrative action, is not a land use decision as described in ORS 197.015, and is not subject to appeal as a land use decision.

~~EE~~. Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.

~~FG~~. If a permit decision is appealed beyond the jurisdiction of the city, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the city. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

14.52.150 Revocation of Decisions

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the city's approval, the city may institute a revocation proceeding under this section.

- A. Type I, Type II, and Type III decisions may be revoked or modified if the Planning Commission determines a substantial likelihood that any of the following situations exists:
 - 1. One or more conditions of the approval have not been implemented or have been violated: or
 - 2. The activities of the use, or the use itself, are substantially different from what was approved or represented by the applicant.
- B. A revocation shall be processed as a Type III decision. The Community Development Department or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the city's approval.
- C. Effect of revocation. In the event that the permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the Planning Commission, unless the decision provides otherwise. In the event the Planning Commission's decision on a revocation request is appealed, the requirement to terminate the use shall be stayed pending a final, unappealed decision.

14.52.160 Applicability in the Event of Conflicts

The provisions of this section supersede all conflicting provisions in the Newport Zoning Ordinance.

~~Chapter 14.53 Council Review~~

~~Chapter 14.54 Applicability of the provisions of this ordinance~~

~~The rules, requirements, and provisions of this Ordinance are in addition and not in lieu of any prior ordinance, resolution, rule, requirement, or procedure previously adopted by the City of Newport except as may have been expressly repealed, provided, however, that the provisions of this Ordinance shall be controlling in cases where there may be conflicting provisions.~~

~~Chapter 14.55 Compliance with ordinance provisions~~

~~No structure or lot shall hereafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance.~~

Chapter 14.56 ~~53~~ Enforcement~~ENFORCEMENT~~

- A. The City Manager, or designee, shall have the power and duty to enforce the provisions of this ~~Ordinance~~Chapter. An appeal from a ruling of the City Manager, or designee, shall be made to the City Planning Commission.
- B. Any use authorized under the provisions of this ~~ordinance~~Chapter shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with ordinance approval standards or conditions of approval.

Chapter 14.57 ~~54~~ Penalty~~PENALTY~~

~~Except as provided hereafter, a A violation hereof of the provisions of this Chapter shall be punishable as an a civil infraction pursuant to the provisions of Chapter 2.15 of the Newport Municipal Code by a fine not to exceed \$500.00 for each violation. If a person has committed more than two violations of this Ordinance within the preceding 24 months, a subsequent violation shall be a misdemeanor, punishable by a fine not to exceed \$1,000.00, or by jail not to exceed 60 days, or both. A violation shall be deemed to occur on the date of the occurrence of the act constituting the violation and not on the date the court shall find the defendant guilty of such violation.~~

~~Each day during which a violation continues shall constitute a separate offense. Violation of more than one provision hereof shall constitute a separate offense with respect to each provision so violated.~~

Staff: Civil infractions are defined in Chapter 2.15 of the Newport Municipal Code. It also covers the process for adjudicating them. No need to duplicate the process.

Chapter 14.5855 ~~Interpretation~~ INTERPRETATION

The provisions of this ~~Ordinance-Chapter~~ shall be held to be the minimum requirements for the promotion of the public safety, health, morals, or general welfare. It is not intended by this ~~Ordinance-Chapter~~ to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Where this ~~Ordinance-Chapter~~ imposes a greater restriction upon the use of buildings or premises, or upon the heights of buildings, or requires larger yards and open spaces than are required in other ordinances, codes, regulations, easements, covenants, or agreements, the provisions of this ~~Ordinance-Chapter~~ shall govern.

Chapter 14.5956 ~~Severability~~ SEVERABILITY

The provisions of this ~~Ordinance-Chapter~~ are hereby declared to be severable. If any section, sentence, clause, or phrase of this ~~Ordinance-Chapter~~ is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ~~Ordinance-Chapter~~.

Chapter 14.6057 ~~Fees~~ FEES

~~Zoning and planning fees~~ Fees for the review of land use actions outlined in this Chapter shall be fixed by the City Council by resolution and shall be reviewed annually. ~~Zoning and planning~~ Such fees shall be paid upon submission of an application ~~of or~~ petition and shall ~~not~~ be refundable only in those circumstances where the application or petition is withdrawn before the City incurs costs related to the review and/or processing of the request.

Staff: Revisions clarify language and circumstances where fees are refundable.