

Title 17

DEVELOPMENT REGULATIONS

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Chapter 17.01

GENERAL PROVISIONS

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17.01.010 Title.

The provisions of this title and amendments to it shall be known as the city of Newport development regulations, NMC Title 17. It adopts, as a condition to the provisions of the text of the development regulations, a map entitled, "The Official Zoning Map for the City of Newport." (Ord. 954 § 2, 2001)

17.01.020 Purpose.

A. The purpose of these development regulations is to implement the Newport comprehensive plan and to comply with the provisions and objectives of Chapters 36.70 and 36.70A RCW as now or hereafter amended.

B. The objectives of this title are:

1. To promote the orderly growth consistent with the goals and objectives of the Newport comprehensive plan.
2. To promote the public health, safety and welfare.
3. To regulate the types, intensities and placement of structures.
4. To organize the general patterns of land use.
5. To provide for adequate open space for recreation, movement of pedestrian and vehicle traffic, and parking. (Ord. 954 § 2, 2001)

17.01.030 Scope and compliance.

A. In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of this title differ from the requirements of any of the lawfully adopted rules, regulations, ordi-

nances, or deed restrictions, the most restrictive or that imposing the higher standards to be met prior to a land use being permitted shall govern.

B. Upon request and as determined necessary, the planning commission shall interpret the meaning or application of the provisions of this title and issue a written administrative interpretation within 30 days. The written interpretation shall concisely identify the issue as well as the reasoning behind the interpretation.

C. No structure or lot shall be used or occupied, and no building permit for the erection, relocation, alteration or expansion of any structure shall be granted, unless compliance with the provisions of this title have been satisfied. (Ord. 954 § 2, 2001)

17.01.040 Building construction restrictions.

No building shall be erected, reconstructed, or structurally altered, nor shall any building or premises be used for any purpose other than is permitted in the zone in which the building or premises is located, except as permitted by this code.

No building shall be erected or structurally altered to exceed in height the limit established in this title for any zone in which the building is located.

No lot area shall be so reduced or diminished that the yards or other open spaces are smaller than prescribed by this title, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations established for the zone in which the building is located. (Ord. 954 § 2, 2001)

17.01.050 Annexations.

Annexation requests shall be made to the city of Newport. All land annexed to the city within the urban growth area (UGA) shall be zoned R-1, unless otherwise determined by the city council after proper notice and a public hearing. All Pend Oreille County plats within the annexed area shall be reviewed and brought into compliance with current city standards "by local improvement district or other assessment means to ensure the annexed area

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bears the costs of any upgrading necessary to meet city standards existing at the time of the annexation.”

The annexation of any property into the city which is not platted in compliance with current city platting requirements shall be conditioned upon that property being platted in compliance with current city platting requirements. The city council may condition acceptance of any annexation petition upon the completion of utility, street, sidewalk or other improvements to city standards to ensure compatibility of the annexation area with existing city utilities, streets, sidewalks or other improvements. (Ord. 1028 § 1, 2005; Ord. 954 § 2, 2001)

17.01.060 Definitions.

A. General Provisions.

1. The purpose of these definitions is to help understand the provisions of this title. Words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word “shall” is always mandatory and not merely directive.

2. Terms that are not specifically defined below are to be understood according to the common meaning within the context in which they are used.

B. Definitions.

Accessory Dwelling Unit. An accessory dwelling unit shall be allowed when built above the garage in the rear of the main building.

“Accessory use or structure” means a building, part of a building or structure or use which is subordinate to, and the use of which is common or incidental to that of the main building, structure or use on the same lot.

“Adjacent lots” means lots, tracts or parcels sharing a common boundary line.

“Adult entertainment uses” means any establishment wherein any portion of total revenues at or above 20 percent, or a substantial portion of interior business or advertising to the sale or rental for any form of consideration of any one or more of the following which depicts or describes sexual activities or anatomical areas represented in a sexual context: books, magazines, periodicals, other printed

matter, photographs, films, video cassettes, slides or any other visual representation; night-clubs, bars or similar establishments which feature persons who appear nude or semi-nude; live performances which are characterized by the exposure of sexual activities or anatomical areas; any motel or hotel which offers accommodation to its patrons with closed-circuit television transmissions, videos, films, or other photographic reproductions of sexual activities or anatomical areas, or offers accommodations for a period of time less than 20 hours; any adult motion picture theatre or any model studio wherein persons may appear nude or semi-nude to be drawn, sketched, observed, photographed, painted or similarly depicted.

“Adult family home” means homes providing shelter and 24-hour care for adults.

“Alley” means a public right-of-way not over 30 feet wide which affords, generally, an accessory means of access not intended for general traffic circulation.

“Annexation” means new areas or territory added to the city of Newport that will revise and expand the existing corporate limits.

“Apartment house” means a building or portion of a building designed for the occupancy of three or more families living independently in three or more dwelling units.

“Appeal” means a request for review of the interpretation of any provision of this title or a request for a variance.

“Area, sign” means, for regularly shaped signs, the simple area of the sign. For irregularly shaped signs, the area shall be that of the rectangle, triangle, or circle (whichever is smaller), which will wholly contain the sign. The structure supporting a sign shall not be included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. In the case of a wall mural incorporating commercial wording, the sign area includes only the portion of the mural which contains the wording circumscribed as set forth in this definition.

“Arterial” means any street which has been designated to carry large volumes of traffic and designated as an arterial in the Newport comprehensive plan.

“Auto wrecking yard” means an open area used for dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles for their parts.

“Basement” means any level below the ground floor of a building.

“Binding site plan” means a drawing to a scale specified by local ordinance which identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by the local regulations; contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the city in approving the site plan; and contains provisions making any development be in conformity with the site plan.

“Block” means a group of lots, tracts or parcels within well-defined and fixed boundaries.

“Boardinghouse” means a building or portion of a building other than a hotel where lodging and meals are provided for compensation.

Bond. See “Performance bond.”

“Buffer” means a horizontal distance measured perpendicularly from a property line which is required of a property owner to reduce the impacts of proposed uses on adjacent property or natural features by blocking or reducing noise, glare or other emissions or to maintain privacy.

“Building, main” means any building occupied by the essential use of the zone in which the building is located.

“Building site” means that portion of the lot or parcel of land upon which the building is to be placed, or is already existing, including adequate areas for sewage disposal, clearances, proper drainage, appropriate easements and, if applicable, the requirements of other ordinances.

“Bulk plant” means an establishment where flammable liquids are received by pipeline, tank car or tank vehicle, and are stored or

blended in bulk for the purpose of distributing such liquids by pipeline, tank car, tank vehicle or container, to users or distributors.

“Business” or “commerce” means the engaging in the purchase, sale, barter or exchange of goods, wares or merchandise; and the maintenance or operation of offices or recreational or amusement enterprises.

“Camper” means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational and vacation uses.

“City council” means the Newport city council, which is the legislative authority of the city.

“Comprehensive plan” means the current comprehensive plan of the city, adopted by the city council pursuant to Chapter 36.70A RCW, and any amendments or supplements adopted therein.

“Conditional use permit” means a permit which may be granted by the planning commission for uses which are of similar character and would not be detrimental to the public health, safety, morals, and general welfare.

“Confidential social service facilities” means emergency facilities to provide shelter for victims of intimate partner abuse, sexual assault and/or homelessness.

“Contiguous property” means land adjoining and touching other land, not previously platted, and having the same owner regardless of whether or not portions of the property have separate tax lot numbers, or were purchased at different times, lie in different sections, different government lots or are separated from each other by private road or private rights-of-way.

“Convalescent home” means any building or premises in and on which two or more sick, injured, or infirm persons are housed, for a period in excess of 24 consecutive hours, and furnished with meals and nursing care for hire.

“Critical areas” include the following areas and ecosystems:

1. Wetlands;
2. Areas with a critical recharging effect on aquifers used for potable water;
3. Fish and wildlife habitat conservation areas;
4. Frequently flooded areas; or

5. Geologically hazardous areas.

“Critical areas buffer” means an area that surrounds and protects a critical area from adverse impacts to the functions and values of the resource.

“Cul-de-sac” means a road closed at one end by a circular area of sufficient size for turning vehicles around, and for purpose of definition, may include the “hammerhead” configuration at the closed end rather than the conventional circular turnaround.

“Dangerous waste” means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste.

“Day care facility” means an agency that regularly provides care for a group of children for periods of less than 24 hours. Separate requirements are adopted for the following subcategories of day care centers:

1. A “day care center” provides for the care of 13 or more children. No such center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

2. “Mini day care program” means:

a. A day care center for the care of 12 or fewer children cared for on a full-time basis and such other children cared for on a part-time basis, characterized as drop-ins, as is allowed by the rules of the State of Washington, Department of Social and Health Services in a facility other than the family abode of the person or persons under whose direct care and supervision the child is placed.

b. For the care of from seven through 12 children cared for on a full-time basis and such other children cared for on a part-time basis, characterized as drop-ins, as is allowed by the rules of the State of Washington, Department of Social and Health Services in the family abode of such person or persons.

3. A “family day care home” means a home regularly providing care during part of the 24-hour day to six or fewer children cared for on a full-time basis and such other children cared for on a part-time basis, characterized as

drop-ins as is allowed by the rules of the State of Washington, Department of Social and Health Services.

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the approval of such plat in the manner provided in this title.

“Deed” means an instrument in writing, signed, attested to, and delivered by the grantor whereby an interest in realty is transferred from the grantor to grantee.

“Density” means a measure that, in terms of development, can include the ratio of dwelling unit per lot area or per acre, square feet of building floor area per lot area, people per square feet of building floor area or per acre.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Division of land” means any conveyance, not otherwise exempt or provided for in this title, which alters or affects the shape, size or legal description of any part of an owner’s original tract.

“Dwelling, duplex” means a structure containing two dwelling units.

“Dwelling, multiple-family” means a structure containing three or more dwelling units.

“Dwelling, single-family” means a structure containing one dwelling unit.

“Dwelling unit” means one or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and bathroom facilities for use by a family or household.

“Easement” means a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

“Family” means an individual or group of individuals not necessarily related by blood, marriage or legal custody, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

“Final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the Pend Oreille County auditor and containing all elements and requirements as set forth in this title.

“Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

“Flood insurance rate map (FIRM)” means the official map of Newport on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to Newport.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Front street” means the street containing the most facing lots or lineal footage in a block.

“Garage, private” means an accessory building or part of a main building intended primarily for the storage of motor vehicles as an accessory use, and when the storage space does not exceed the following:

1. For single-family dwellings: three vehicles, not more than one of which may be a non-passenger vehicle;
2. For any other dwelling: passenger vehicles equal to 150 percent of the number of dwelling units of the dwelling;
3. For any other use: no limitation.

“Geologically hazardous area” means an area that is not suited for development because of its susceptibility to erosion, sliding, earthquakes, or other geological events hazardous to public health and safety.

“Habitat conservation area” includes:

1. Areas with which species designated as endangered, threatened, and sensitive under Section 7 of the Endangered Species Act have primary association;
2. Habitats and species of local importance;
3. Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide wildlife habitat;
4. Waters of the state; and
5. State natural area preserves and natural resource conservation areas.

“Hazardous substance” means any liquid, solid, gas, sludge, including any material, substance, product, commodity or waste regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste (RCW 70.105.010).

“Hazardous waste” means all dangerous and extremely hazardous waste as defined in RCW 70.105.010(15), except for moderate-risk waste as set forth in RCW 70.105.010(17).

“Hazardous waste storage” means the holding of hazardous waste for a temporary period. Accumulation of hazardous waste by the generator on the site of generation is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

“Hazardous waste treatment” means the physical, chemical or biological processing of hazardous waste to make such waste less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

“Hazardous waste treatment and storage facility, off-site” means treatment and storage facilities for hazardous wastes generated on properties other than those on which the facility is located. This use is always the primary use of the property.

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“Hazardous waste treatment and storage facility, on-site” means treatment and storage facilities for hazardous wastes generated on the same property, incidental to a primary activity on the property.

“Home occupation” means an occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes for which purpose the residential zone was created and primarily intended. (See NMC 17.03.050 for home occupation criteria.)

“Hospitals” mean any institutions established for the diagnosis, treatment and care of human ailments, and shall not include convalescent homes, rest homes, or nursing homes.

“Hotel” means:

1. A building containing five or more guest rooms for lodging with or without meals for compensation and which contain no cooking facilities for the lodgers but may contain an apartment for the manager;

2. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

“House trailer” means a vehicle that is self propelled or propelled by another vehicle, for use or capable of being used for living and/or sleeping quarters, and not conforming to any schedule operating between fixed termini.

“Household pets” means dogs, cats, rabbits, pigeons, chickens, ducks, mice, hamsters, gerbils, parakeets, canaries, finches and other similar exotic fowl and songbirds, reptiles, amphibians, fish and other similar animals and fowl kept for companionship or for personal enjoyment.

“Improvements” means streets, curbs, gutters, sidewalks, utility lines, drainage structures, street trees and plantings and includes other amenities that add to the value, appear-

ance, safety and general welfare of the subdivision or short subdivision, and includes provisions to preserve these conditions.

“Junkyard (salvage yard)” means a place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including auto wrecking yards, used lumber yards, and yards for use of salvaged house wrecking and structural steel materials and equipment.

“Kennel” means a commercial establishment in which four or more dogs or domesticated animals which are five months old or older are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

“Lease” means a contract or agreement whereby one party grants to another party general or limited rights, title or interest in real property.

“Livestock” means horses, bovine animals, sheep, goats, swine, donkeys and mules.

“Lot” means a fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

“Lot, corner” means a lot abutting upon two or more streets at their intersection, or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees within the lot lines.

“Lot coverage” means the percentage of the total lot area covered by structures, including all projections except eaves.

“Lot depth” means the horizontal distance between the front and rear lot lines measured by connecting the midpoints of the front and rear lot lines.

“Lot, front” means that portion nearest the street except on a corner lot in which case the front yard shall be considered the narrowest part of the lot that abuts the street.

“Lot of record” means any lot established by recorded plat.

“Lot width” means the horizontal distance between side lot lines measured at the front yard building line.

“Manufacture” means the converting of raw materials or finished products, or any or either of them, into an article or articles or substance of a different character, or for use for a different purpose.

“Manufactured home” means a factory-built single-family dwelling constructed after June 15, 1976, and in accordance with the U.S. Department of Housing and Urban Development (HUD) requirements. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, recreational vehicle or other similar vehicles.

“Manufactured housing community” means a parcel (or contiguous parcels) of land divided into two or more manufactured housing lots for rent or sale.

“Maximum lot coverage” means the maximum allowable coverage of all structures on a given lot.

Metes and Bounds. A series of lines around the perimeter of an area is known as the “metes and bounds” description; “metes” means bearings and distances and “bounds” refers to monuments both physical and legal.

“Mitigation” means compensating for impacts to a critical area, particularly wetlands, such that no overall net loss in either size or function occurs. This shall be consistent with NMC Title 16, Environment, and the State Environmental Protection Agency.

“Mixed use” means the combination of uses in a single zone, such as a combination of office, commercial, and residential uses on the same lot or in the same structure. Mixed use is permitted in Newport’s central business district.

“Mobile home” means a factory-built dwelling fabricated prior to June 15, 1976, to standards other than the Housing and Urban Development (HUD) Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD

Manufactured Home Construction and Safety Standards Act. See “Manufactured home.” For floodplain management purposes, the term “mobile home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term “mobile home” does not include park trailers, travel trailers, recreational vehicle or other similar vehicles.

“Modular home” means a dwelling unit assembled off-site in one or more sections, which complies with all local building codes (for on-site construction) when transported to and mounted on a permanent foundation.

“Motel” means a group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside and are available to the public for rental.

“Nonconforming lot” means a lot of record, which was lawfully established, existing and maintained at the effective date of the provisions of this title but which, because of the application of this title to it, no longer conforms to the regulations prescribed in this title for the district in which it is located.

“Nonconforming use structure” means a building, structure, or land use, which was lawfully established or existing and maintained at the effective date of the provisions of this title but which, because of the application of this title to it, no longer conforms to the regulations prescribed in this title for the district in which it is located.

“Off-street parking space” means a permanently surfaced area either within a structure or in the open for the parking of a motor vehicle that is not located on a public street or right-of-way.

“On-site” means the same, geographically contiguous or bordering property. On-site hazardous waste treatment and storage facilities treat and store wastes generated on the same property.

“Open space (green belt)” means space which is not used for buildings or structures. It may be air, land or water.

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Overlay. An “overlay” consists of a mapped area that has special requirements in addition to those of the underlying zone. Development within the overlay must conform to the requirements of both the underlying zone and the overlay, or to the more restrictive of the two.

“Parking lot, public” means an area of land designated to provide off-street parking as its use.

“Parking space” means an off-street space, normally nine by 18 feet, used to temporarily park a motor vehicle and having access to a public street or alley.

“People with functional disabilities” means:

1. A person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:

- a. Needing care, supervision or monitoring to perform activities of daily living; or
- b. Needing support to ameliorate or compensate for the effects of the functional disability to lead as independent a life as possible; or
- c. Having a physical or mental impairment which substantially limits one or more of the person’s major life activities; or
- d. Having a record of having such an impairment; or

2. Being regarded as having such an impairment. Functional disabilities does not include current, illegal use of or active addiction to a controlled substance.

“Performance bond” means that security which may be accepted in lieu of a requirement that certain improvements be made before the city council approves the final plat, including performance bonds, escrow agreements, and other similar collateral or surety agreements.

“Planned development” means a process allowing for flexibility in the grouping, placement, size and use of structures on a fairly large tract of land. A planned development is developed as a single proposal, using a process which incorporates design review and public participation.

“Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys or other divisions and dedications.

“Plat, final” means a final drawing of a subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements of this title and Chapter 58.17 RCW.

“Plat, preliminary” means a neat and accurate drawing of a proposed subdivision or short plat, showing the layout of streets and alleys, lots, blocks, restrictive covenants and similar elements, in accordance with this title, submitted for review by the city. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

“Primary use” means the specific purpose for which land and/or building is to be used as indicated by the purpose of the zone in which the land is located.

“Public facilities” means facilities owned by the public or private enterprise and operated for the benefit of the community. This also includes, but is not limited to schools, libraries, fire stations, water and sewage systems, police stations, cemeteries, refuse disposal and power systems.

“Public utility functions” means those functions relating to publicly operated utilities including but not limited to water, electric and sewage systems.

“Recreational vehicle” means a vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel, recreational or vacation use. The vehicles contain plumbing, heating and electrical systems, which are operated without connection to outside utilities. Recreational vehicles shall include, but are not limited to, campers, motor homes, camping trailers and travel trailers; tents are excluded. A recreational vehicle shall have a body width of no more than eight feet and a body length of no more than 35 feet when factory equipped for the road.

“Recreational vehicle park” means a tract or parcel of land upon which two or more recreational vehicle sites are located for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes.

“Recreational vehicle site” means a plot of ground within a recreational vehicle park intended for temporary location of a recreational vehicle as a dwelling unit.

“Right-of-way” means a city-owned strip of land to be used for public roads, bikeways, sidewalks, mass transit, utilities, or similar related public uses.

“Sanitary station” means a facility used for removing and disposing of wastes from recreational vehicle sewage holding tanks.

“Segregation” means the division of land into two or more “tax parcels” for tax purposes only.

“Setback” means the horizontal distance in feet as measured from a lot line or right-of-way to the nearest vertical wall of a structure.

“Short plat” means a document consisting of a map of a short subdivision together with written certificates, dedications and data.

“Short subdivision” means the division of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.

“Sign” means any letters, figures, design, symbol, trademark, or any illuminating device or structure, or any part thereof, intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise whatsoever and painted, printed, or constructed and displayed in any manner whatsoever out of doors for recognized advertising purposes. However, this shall not include any official court or public notices nor the flag, emblem, or insignia of the government, school, or religious group when displayed for official purposes. Interior signs, if located on a window or within a distance equal to the greatest dimension of the window and if obviously intended for viewing from the exterior, shall be considered an exterior sign for purposes of this sign code.

“Start of construction” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab

or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Street” means a public, dedicated right-of-way established and maintained under public authority. It may include private ways opened for limited public use, and does not include alleys.

“Structure” means anything constructed or erected which requires location on the ground or is attached to something having location on the ground.

“Subdivider” means a person, including a corporate person, who undertakes to create a subdivision or short subdivision.

“Subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure where the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, 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

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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:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Tract” means a parcel of land proposed for subdivision or subdividing.

“Variance” means an adjustment, which requires review by the board of adjustment, in the specific regulations of this title regarding a piece of property where the strict application of the development standards would cause undue hardship to the owner as a result of existing physical constraints on the property.

“Wellhead protection area” means the surface and subsurface area surrounding a well or well field that supplies a public water system through which contaminants are likely to pass and eventually reach the water well or well field, as has been designated pursuant to Chapter 246-290 WAC.

“Yard, front” means an unoccupied open space extending the full width of the lot between a structure in which the use is located and the front lot line, unobstructed by buildings or structures from the ground upward, the depth of which is the least distance between the front line and the wall of the structure.

“Yard, rear” means an unoccupied open space extending the full width of a lot, the depth of which is the greatest distance between the rear of the structure in which the essential use is located and the rear lot line from the nearest wall of the structure.

“Yard, side” means an unoccupied open space extending from the front yard to the rear yard between the structure in which the use is located and a side lot line.

“Zone” means an area accurately defined as to boundaries and location on an official map and within which area only certain types of land uses are permitted. (Ord. 954 § 2, 2001)

Chapter 17.02**ZONING DISTRICTS**

Sections:

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- 17.02.040 Single-family residential (R-1) zone.
- 17.02.050 Single-family residential (R-2) zone.
- 17.02.060 Multifamily residential (R-3) zone.
- 17.02.070 Manufactured housing communities (R-4) zone.
- 17.02.080 Central business district (C-1) zone.
- 17.02.090 Highway commercial (C-2) zone.
- 17.02.100 Industrial (I) zone.
- 17.02.110 Public facilities (PF) zone.
- 17.02.120 Critical areas overlay (CA) zone.
- 17.02.130 Open space (OS) zone.

17.02.010 Text and official map.

The city of Newport is divided into zones or use districts as shown on the official zoning map, which together with all notes on the map, is adopted by reference and declared to be part of this title. The districts shown on the map and described in this title are:

- R-1: Single-Family Residential Zone
- R-2: Single-Family Residential Zone
- R-3: Multifamily Residential Zone
- R-4: Manufactured Housing Communities Zone
- C-1: Central Business District Zone
- C-2: Highway Commercial Zone
- I: Industrial Zone
- PF: Public Facilities Zone
- OS: Open Space Zone
- CA: Critical Areas Overlay Zone

The official zoning map is comprised of several zoning districts and shall be identified by the signature of the mayor and city clerk together with the date of the adoption of the ordinance codified in this title.

If, in accordance with the provisions of this title and Chapter 36.70 RCW, changes are made in district boundaries or other matters portrayed on the official map, such changes shall be made on the official map promptly after the amendment has been approved by the city council.

No changes of any nature shall be made in the original map or matters shown thereon except in conformity with the procedures in this title. Any unauthorized change shall be considered a violation of the provisions of this title, punishable to the full extent of the law.

The official zoning map shall be the final authority as to the current zoning status of land in the city. (Ord. 954 § 2, 2001)

17.02.020 Use classifications.

A. Table 17.02.020 indicates permitted, conditionally permitted and prohibited uses in the various zoning districts. Permitted uses are allowed as a matter of right. In consideration of traffic, noise, lighting, hazards, health, environmental and other issues, certain uses may be permitted subject to a conditional use permit. Prohibited uses are those uses not permitted within a zone at any time under any circumstances. For purposes of this section the following apply:

- P: Permitted Use
- C: Conditional Use
- N: Prohibited Use

B. The planning commission may permit any use not specifically described in this title; provided, that the use is not prohibited, or is not expressly allowed in a less restrictive zone. For purposes of this section, the residential zone (R-1) shall be considered the most restrictive. The Newport planning commission shall keep a record of such interpretations to facilitate equitable future administration and to permit periodic amendments to this title.

Table 17.02.020

Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF	OS
Accessory dwelling unit	P	P	N	N	C	C	N	N	N
Accessory services, e.g., newsstand	N	N	N	N	P	P	N	N	N
Adult entertainment, book stores	N	N	N	N	N	C	N	N	N
Adult family homes	C	C	C	C	N	N	N	N	N
Automotive sales and service	N	N	N	N	P**	P	P	N	N
Automotive towing/storage facility	N	N	N	N	N	C	P	N	N
Bed and breakfast	C	C	N	N	N	N	N	N	N
Boardinghouse	P(1)	P(1)	P(2)	C	C	N	N	N	N
Bottling plant	N	N	N	N	N	C	P	N	N
Breweries, wineries	N	N	N	N	C	P	P	N	N
Bulk plant	N	N	N	N	N	N	C	N	N
Business schools, dance and music schools	C	C	C	C	P	P	C	P	N
Cell towers	N	N	N	N	N	C	P	C	C
Cleaning and laundry establishment	N	N	C	P	C	P	P	N	N
Clinic, hospital and convalescent facilities	C	C	C	C	P	P	C	P	N
Clothing fabrication and assembly	N	N	N	N	P	P	P	N	N
Commercialized form of recreation (bowling alley, theater)	N	N	N	C	P	P	N	N	N
Communication facilities	C	C	C	C	P	P	C	C	N
Concrete plants or accessory uses	N	N	N	N	N	C	C	N	N
Confidential social service facilities***	P	P	P	P	P	P	P	P	N
Convalescent homes and nursing homes	N	N	P	P	C	C	N	P	N
Day care – (13 or over) child and adult	C	C	C	C	C	C	C	C	N
Department stores, specialized service stores, specialty retail stores (shoe, sporting goods, gifts, hardware)	N	N	N	N	P	P	C	N	N
Detention centers	N	N	N	N	N	N	C	C	N
Drive-thru businesses	N	N	N	N	C	P	P	N	N
Duplex	P	P	P	N	N	N	N	N	N
Electronics manufacturing	N	N	N	N	N	P	P	N	N
Feed and seed stores	N	N	N	N	P	P	P	N	N
Financial institutions	N	N	N	N	P	P	C	C	N
Golf course	C	C	C	N	N	N	N	C	C
Gravel pits/rock crushing operations	N	N	N	N	N	N	C	N	N
Grocery stores	N	N	N	C	P	P	N	N	N

Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF	OS
Hazardous waste storage and treatment (offsite)	N	N	N	N	C	C	C	N	N
Hazardous waste storage and treatment (onsite)	N	N	N	N	C	C	C	N	N
Home occupation	P	P	P	P	P	N	N	N	N
Hotel or motel	N	N	N	N	P	P	C	N	N
Housing for people with functional disabilities	P(1)	P(1)	P(2)	P(2)	P	N	N	C	N
Insurance, real estate, legal and abstract offices	N	N	N	N	P	P	C	C	N
Jewelry stores	N	N	N	N	P	P	N	N	N
Junkyard	N	N	N	N	N	N	C	N	N
Light industrial uses	N	N	N	N	N	C	P	N	N
Liquor stores	N	N	N	N	P	P	N	N	N
Lumber and building materials sales yards	N	N	N	N	C	P	P	N	N
Machine shops	N	N	N	N	N	P	P	N	N
Manufacture of explosive or highly flammable material operations	N	N	N	N	N	N	C	N	N
Manufacture or refining of products such as acetylene; asphalt or tar; kiln fired brick, tile terra cotta; fats, oils or soap; oilcloth or linoleum; paint, shellac, turpentine, lacquer, or varnish, etc.	N	N	N	N	N	C	C	N	N
Manufactured homes as residences	P	P**	P	P	N	N	N	N	N
Manufactured housing community	N	N	N	P	N	N	N	N	N
Mini day care (12 or under)	P	P	P	P	P	P	C	C	N
Mini storage	N	N	N	N	N	C	P	N	N
Mixed use (office, commercial and/or residential on a single parcel or in a single structure)	N	N	N	N	P	N	N	N	N
Mobile home as a residence	N	N	N	C	N	N	N	N	N
Multifamily residence	N	N	P	P	P(3)	P	N	N	N
Museum, art galleries	C	C	C	C	P	P	C	P	N
Newspaper and printing shops	N	N	N	N	P	P	P	N	N
Nursery sales yards and greenhouses	N	N	N	N	C	P	P	C	N
Nursery schools, day nurseries, childcare centers	C	C	C	C	P	P	N	P	N
Paper or pulp manufacture	N	N	N	N	N	C	C	N	N
Passenger transportation depots	N	N	N	N	P**	P	P	P	N

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Zone	R-1	R-2	R-3	R-4	C-1	C-2	I	PF	OS
Pet shops, small animal hospitals, kennels	N	N	N	N	C	C	C	C	N
Petroleum processing	N	N	N	N	N	C	C	N	N
Police and fire station, branch utilities	C	C	C	C	C	C	C	P	N
Professional and general offices	C	C	C	N	P	P	P	C	N
Public garages or parking lots	C	C	C	C	P	P	C	C	P**
Public uses (school, library, park, playground, social centers, water reservoir, wastewater treatment plant)	C	C	C	C	C	C	C	P	C
Railroad rights-of-way (not including yards)	N	N	N	N	N	P	P	P	P
Recreational vehicle park	N	N	N	C	N	C	C	C	N
Religious and charitable institutions	C	C	C	C	P	P	N	P	N
Restaurants	N	N	N	N	P	P	P	N	N
Service station	N	N	N	N	P	P	C	N	N
Shared parking	N	N	N	N	C	C	C	N	N
Single-family residence	P	P	P	N	P	N	N	N	N
Slaughter houses, stockyards, or feedlot operations	N	N	N	N	N	N	C	N	N
Stone and monument businesses	N	N	N	N	C	P	P	N	N
Tannery or curing of raw hides	N	N	N	N	N	C	C	N	N
Tavern or nightclub	N	N	N	N	P	P	N	N	N
Temporary carnival or circuses	N	N	N	N	C	C	C	P	N
Temporary stands for sale of agricultural products	N	N	N	N	P	P	P	C	C
Temporary uses	N	N	N	N	C	C	C	C	C
Truck terminals	N	N	N	N	N	P	P	N	N
Upholstery shops	N	N	N	N	P	P	P	N	N
Utility service yard	N	N	N	N	N	P	P	C	N
Warehouse and wholesale	N	N	N	N	C	P	P	N	N

Where the application of the above does not clarify the zone boundary location, the planning commission shall interpret the map and by written decision determine the location of the zone boundary. The city shall keep a copy of the written decision on file.

Footnotes:

1. Accommodating not more than 2 persons in addition to residents
 2. Accommodating not more than 10 persons in addition to residents
 3. Above the ground floor
- ** Allowed per design review
 *** Location will be kept totally confidential from public disclosure

(Ord. 1026 § 1, 2005; Ord. 954 § 2, 2001)

17.02.030 District boundaries.

A. The boundaries of the various districts shown on the official zoning map are, unless otherwise indicated, streets, alleys, or lot lines as shown on the map.

B. Where the actual street layout on the ground varies from that shown on the zoning maps, the designations shown on the maps shall be applied by the building department to the street as actually laid out so as to carry out the intent and purpose of the zoning plan for that district.

C. Where a district boundary line, as shown on the zoning map, divides a lot in a single ownership at the time of passage of the ordinance codified in this title, the use permitted on the least restrictive portion of the lot may extend to the portion lying in the more restrictive district a distance of not more than 50 feet beyond the district boundary line. (Ord. 954 § 2, 2001)

17.02.040 Single-family residential (R-1) zone.

A. Purpose. The purpose of the single-family residential (R-1) zone is to provide a single-family residential area that promotes and encourages an environment favorable for family life. Residential development is encouraged to blend with the existing character of the neighborhood and provide for adequate open space without resulting in increased traffic on minor streets. The permitted uses include, but are not limited to, single-family dwellings, accessory dwelling units, duplexes, manufactured homes and home occupations (see NMC 17.01.060, Definitions). This area is encouraged to develop at a medium density (net five to six units per acre).

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the R-1 zone.

C. Accessory Uses. The following accessory uses are permitted in an R-1 single-family residential zone:

1. Private garages having space to accommodate not more than three automobiles;

2. Accessory dwelling units are allowed when built above the garage located in the rear of the building;

3. Tool sheds;

4. Outdoor patios;

5. Hobby shops and greenhouses relating only to the hobbies of the occupants;

6. Professional clinics and offices; provided, it meets the definition of home occupation;

7. Gardening and fruit raising;

8. General farming which shall include cultivation and harvesting of the crops, but shall not include commercial feeding of live-stock.

D. Manufactured Housing Design Standards. Manufactured housing design standards can be found in the R-4 zone; see NMC 17.02.070(D).

E. Development Standards.

Minimum lot size	6,000 square feet
Minimum lot depth	120 feet
Minimum lot width	50 feet
Minimum building setback, front yard Front door faces front of lot. Corner lots: the front setback is determined by the location of the front door.	20 feet
Minimum building setback, side yard Side yards may be adjusted to 5 feet and 15 feet to accommodate a driveway in the larger side yard	10 feet
Minimum building setback, street side yard	20 feet
Minimum main building setback, rear yard	20 feet
Maximum main building height	30 feet
Minimum main building size	24 feet long by 20 feet wide
Maximum accessory building height	30 feet
Accessory buildings in rear yard a minimum setback from all lot lines	5 feet
Maximum lot coverage	80%

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F. Accessory Dwelling Units. One accessory dwelling unit is allowed when located above the garage located at the rear of the main building.

G. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to the R-1 zone. (Ord. 954 § 2, 2001)

17.02.050 Single-family residential (R-2) zone.

A. Purpose. The purpose of the R-2 zone is to provide for higher intensity, less restrictive single-family and double-family residences. Permitted uses include, but are not limited to, single-family dwellings, accessory dwelling units, duplexes, manufactured homes and home occupations (see NMC 17.01.060, Definitions). This area is encouraged to develop at a medium density (net eight to 10 units per acre).

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the R-2 zone.

C. Accessory Uses. See NMC 17.02.040(C) for a list of accessory uses allowed in the R-2 zone.

D. Manufactured Housing Design Standards. Manufactured housing design standards can be found in the R-4 zone; see NMC 17.02.070(D).

E. Development Standards.

Single-family residence – no minimum lot size, as long as all the following standards are met.	None
Duplex minimum lot area	6,000 square feet
Minimum lot depth (each lot must have 25 feet of street frontage)	None
Minimum lot width (each lot must have 25 feet of street frontage)	None
Minimum building setback, front yard	15 feet
Minimum building setback, side yard	5 feet
Minimum building setback, street side yard	15 feet

Minimum main building setback, rear yard	15 feet
Maximum main building height	30 feet
Minimum main building size	24 feet long by 20 feet wide
Maximum accessory building height	30 feet
Accessory buildings in rear yard (minimum setback from all lot lines)	5 feet
Maximum lot coverage	80%

F. Accessory Dwelling Units. One accessory dwelling unit is allowed when located above the garage located at the rear of the main building.

G. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to the R-2 zone. (Ord. 954 § 2, 2001)

17.02.060 Multifamily residential (R-3) zone.

A. Purpose. The purpose of the R-3 zone is to provide for multifamily affordable housing. Permitted uses include, but are not limited to, apartment buildings, accessory buildings and home occupations (see NMC 17.01.060, Definitions). This area is encouraged to develop at a high density (net 10 to 12 units per acre).

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the R-3 zone.

C. Development Standards.

Minimum lot size	6,000 square feet
Minimum lot depth	100 feet
Minimum lot width	60 feet
Minimum building setback, front yard	20 feet
Minimum building setback, side yard and may be used as parking lot, which shall be separated from any adjacent development by a fence or hedge six feet in height and shall be well maintained.	15 feet

Minimum building setback, street side yard	15 feet
Minimum building setback, rear yard and may be used as parking lot	20 feet
Maximum building height	40 feet
Maximum accessory building height	40 feet
Maximum lot coverage	80%

D. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to the R-3 zone. (Ord. 954 § 2, 2001)

17.02.070 Manufactured housing communities (R-4) zone.

A. Purpose. The purpose of the R-4 zone is to provide for manufactured housing communities, and single-family manufactured homes. Permitted uses include, but are not limited to, manufactured housing communities, single-family manufactured homes and home occupations (see NMC 17.01.060, Definitions). This area is encouraged to develop at a high density (net 10 to 11 units per acre). The purpose of this chapter is to ensure that manufactured housing communities are designed, developed and maintained to provide safety for their residents, to provide affordable, single-family style housing, and to be compatible with the character and scale of surrounding residential neighborhoods.

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the R-4 zone.

C. Accessory Uses. See NMC 17.02.040(C) for a list of accessory uses allowed in the R-4 zone.

D. Manufactured Housing Design Standards. Housing units shall conform to the following design criteria:

1. The structure shall be placed on a permanent foundation in compliance with all applicable building regulations with its lowest finished floor no higher than 16 inches above grade.

2. The structure shall have perimeter skirting of masonry or of a material with a masonry appearance.

3. Roof pitch shall comply with HUD standards.

4. The structure shall have exterior siding and roofing which, in color, material and appearance is similar to the exterior siding and roofing material commonly used in residential dwellings.

5. If a garage or carport is proposed, the garage or carport shall be constructed of like materials.

E. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, particularly NMC 17.03.100, shall also apply to the R-4 zone. (Ord. 954 § 2, 2001)

17.02.080 Central business district (C-1) zone.

A. Purpose. The purpose of the central business district (C-1) zone is to provide for a broad range of retail sales and services that take advantage of the historical identity of downtown Newport. Permitted uses include, but are not limited to, retail, public facilities, office complexes, community centers and residential (prohibited on ground floor). This business district serves as the dominant commercial center for the city and is characterized by minimal parking standards, no building setbacks, and a mix of commercial and residential uses. The pedestrian scale and the compactness of the commercial uses in this zone encourage foot traffic and pedestrian accessibility in order to draw people from their cars to walk and enjoy retail stores, restaurants and community centers.

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the C-1 zone.

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C. Development Standards.

Minimum lot size	5,000 square feet	
Minimum lot width	40 feet	
Minimum building setback, front	0 feet	Buildings may be constructed to the front property line.
Minimum building setback, side	0 feet	Where a C-1 lot, with no alley, abuts a residential district, the adjoining side yard shall be not less than 5 feet or one-fifth the height of the building, with a 6-foot high sight-obscuring fence or hedge.
Minimum building setback, street side	0 feet	Buildings shall be constructed to the street side property line.
Minimum building setback, rear	15 feet	Shall be adequate for freight loading.
Maximum building height	45 feet	

D. Design Standards.

1. Any new construction requiring a building permit in the CBD (C-1) zone shall go through the site plan review process outlined in NMC 17.05.030.

2. Mixed uses within the C-1 zone should consider using shared parking (NMC 17.03.010(E)).

E. Other Applicable Regulations.

1. Residential uses on the ground floor shall be prohibited, except where there is an existing home.

2. In addition to the requirements contained in this section the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to development in the C-1 zone. (Ord. 969 § 1, 2003; Ord. 954 § 2, 2001)

17.02.090 Highway commercial (C-2) zone.

A. Purpose. The purpose of the highway commercial (C-2) zone is to provide for a broader type of commercial uses than those permitted in the central business district (C-1)

zone. Permitted uses include, but are not limited to, retail, office complex and wholesale. This zone is more auto-related than the central business district. The C-2 zone may be characterized by shopping centers, gasoline service stations, automobile sales lots and other general or service commercial uses requiring more land and increased automobile access than would be available in the central business district.

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the C-2 zone.

C. Development Standards.

Minimum lot size	5,000 square feet
Minimum building setback, front	0 feet
Minimum building setback, side	0 feet
Minimum building setback, street side	0 feet
Minimum building setback, rear	0 feet
Maximum building height	Not to exceed 45 feet

D. Other Applicable Regulations. In addition to the requirements contained in this section the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to development in the highway commercial (C-2) zone. (Ord. 954 § 2, 2001)

17.02.100 Industrial (I) zone.

A. Purpose. The purpose of the industrial (I) zone is to provide standards for the location of nonpolluting, light industrial uses which require a large lot area to function and may create a greater degree of hazard or annoyance than would be permitted in any other use district. Typical uses in this zone include, but are not limited to, fabrication, assembly and manufacturing or processing. The zoned industrial areas take advantage of rail and highway access points and use fencing and landscaped screens to help buffer the uses from residential, public and commercial land uses. In addition, design standards are incorporated into the code to insure compatibility with adjacent uses.

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the I zone.

C. Development Standards.

Minimum lot size	None required
Minimum property boundaries setback, front	0 feet, except 50 feet where adjoining a residential district
Minimum property boundaries setback, side	0 feet, except 50 feet where adjoining a residential district
Minimum property boundaries setback, rear	0 feet, except 50 feet where adjoining a residential district

D. Site Plan Review. Prior to the development of any lot in the industrial zone, approval of a site plan review consistent with NMC 17.05.030 is required.

E. Operating Standards. The following provisions shall apply to all uses within this zone:

1. Storage, handling, and use of hazardous substances, materials and devices shall comply with the International Fire Code.

2. Sound levels shall not exceed levels established by noise control regulations of the Department of Labor and Industries. Maximum permissible environmental noise levels to be emitted to adjacent properties are not to exceed levels of the environmental designations for noise abatement (EDNA) as established by the State of Washington, Department of Ecology (WAC 173-60-040).

3. Pollution standards set up by regional, state or federal pollution control commissions or boards shall apply to all uses.

4. There shall be no production of odor, dust, heat, glare, or vibration perceptible beyond the property lines of the site on which the odor, dust, heat, glare, or vibration is being generated.

F. Other Applicable Regulations. In addition to the requirements contained in this section the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to development in the industrial zone. (Ord. 954 § 2, 2001)

17.02.110 Public facilities (PF) zone.

A. Purpose. The purpose of the public facilities (PF) zone is to provide an area for those lands serving the needs of the general public,

such as, but not limited to, land for a courthouse, school, health clinic, or park. This zone is reserved for designated public facilities and generally includes lands owned or reserved for governmental use.

B. Conditional Uses. Table 17.02.020 describes uses which are permitted, conditionally permitted, and prohibited in the PF zone.

C. Development Standards.

1. The lot area in the PF zone shall not be less than in the most restrictive abutting zone.

2. Setbacks shall be no less than the most restrictive setbacks permitted in an abutting zone.

3. Lot coverage shall be the same as the most restrictive abutting zone.

D. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to development in the PF zone. (Ord. 954 § 2, 2001)

17.02.120 Critical areas overlay (CA) zone.

A. Purpose. The purpose of the critical areas overlay (CA) zone is to protect and preserve critical environmental resources while allowing appropriate development activities when carried out in a responsible manner with minimal impacts on the environmental resources. In addition, this section serves to protect the public health, welfare and safety of residents of Newport from development in hazardous areas and to prevent pollution, or the creation of substantial risk of pollution, of the city's aquifer.

The critical areas are regulated by Chapter 16.08 NMC, Natural Resource Lands and Critical Areas, or as subsequently amended, which adopts by reference the Pend Oreille County Resource Lands and Critical Areas Ordinance 92-4, (1992), as amended.

B. Uses. Uses allowed on or within 200 feet of a critical area shall be the same as those listed in the underlying zone in which the lot is located. Each use shall be evaluated using the site plan review process required for the use in

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the zone in conjunction with the requirements of this section and applicable state and federal regulations.

C. Aquifer Recharge/Wellhead Protection Areas. In light of the sensitive aquifer recharge area within the city of Newport, the following stipulations are added over and above Section 323, Regulations, in Pend Oreille County Resource Lands and Critical Areas Ordinance 92-4:

1. The city of Newport has been mapped for critical aquifer recharge areas, by using the DRASTIC index method. According to the map (Intro-2 in city of Newport comprehensive plan) the water table beneath the city of Newport is highly or very highly susceptible to surface contamination. To avoid groundwater contamination, all new uses shall be connected to the city’s water and sewer system. New uses in areas that are highly or very highly susceptible to surface contamination will not be allowed to build a septic system or dig a new well.

2. For uses locating within the critical aquifer recharge area, a disclosure form indicating activities and hazardous materials that will be used shall be provided for review and approval by the city of Newport.

3. Best management practices, as defined by the Department of Ecology, shall be followed by commercial and industrial uses located in the critical aquifer recharge areas. Best available science practices can be found in Publication #97-30, Washington Department of Ecology, July 2000, Water Quality Program.

4. A spill prevention and emergency response plan shall be prepared and submitted by commercial and industrial entities to the city of Newport for review and approval.

D. Frequently Flooded Areas. The areas considered to be in the 100-year flood zone are identified specifically on the National Flood Insurance Flood Rate Program, Map #530137A (Resolution #1384A, relating to flooding or mud slides in the city of Newport). (Ord. 954 § 2, 2001)

17.02.130 Open space (OS) zone.

A. Purpose. Open space (OS) zone provides a respite for the residents of the city of Newport through opportunities for recreation, enjoyment of parks, open spaces and natural vistas and historical areas. The use of land and structures, their location and the construction of new structures or the alteration, addition to or moving of existing structures shall conform to all applicable regulations.

B. Conditional Uses. Table 17.02.020 describes uses that are permitted, conditionally permitted, and prohibited in the OS zone.

C. Development Standards.

Setback, front	20 feet
Setback, side	5 feet or one-fifth building height, whichever is greater
Setback, rear	5 feet
Setback, street side	15 feet
Off-street parking	See NMC 17.03.010
Lot coverage	10%

D. Other Applicable Regulations. In addition to the requirements contained in this section, the requirements contained in Chapter 17.03 NMC, Supplementary Standards, shall also apply to development in the OS zone. (Ord. 954 § 2, 2001)

Chapter 17.03**SUPPLEMENTARY STANDARDS**

Sections:

- 17.03.010 Access, alleys, off-street parking and loading.
- 17.03.020 Landscaping, screening and property maintenance.
- 17.03.030 Accessory structures.
- 17.03.040 Utility installations.
- 17.03.050 Home occupation.
- 17.03.060 Adult entertainment uses.
- 17.03.070 Exceptions/projections.
- 17.03.080 Fences.
- 17.03.090 Signs.
- 17.03.100 Manufactured housing communities.
- 17.03.110 Recreational vehicle parks.
- 17.03.120 Nonconforming uses and structures.

17.03.010 Access, alleys, off-street parking and loading.

A. Purpose. The provision of alleys, off-street parking and loading space in accordance with the needs and requirements of particular property uses is necessary to promote traffic safety, minimize congestion, while maintaining neighborhood or district character.

B. General Provisions. Where the parking requirements for a use are not specifically defined in this chapter, the parking requirements for such use shall be determined by the planning commission, and such determination shall be based upon the requirements for the most comparable use defined in this chapter. Alleys shall be designed to prevent cross lot drainage of storm water.

C. Parking Spaces Required. New uses in all districts shall meet the minimum standards below:

1. Whenever a building is enlarged or altered, or whenever the use of a building or property is changed, off-street parking shall be provided for such expansions, enlargement, or change in use in accordance with the requirements of this title,

2. Off-street parking shall be provided in accordance with the following:

a. All parking spaces shall be provided with adequate ingress and egress.

b. Each off-street parking space shall be a minimum of 18 feet in length and nine feet in width for a standard space.

c. Except for one dwelling and two dwelling units, groups of more than two parking spaces shall be located and served by a driveway that will require no backing movements or other maneuvering within a street or right-of-way other than an alley.

d. Required parking shall not be located in a required front or required side yard along flanking streets on corner lots.

3. Where parking is provided off-site the distance shall be measured from the closest point of the parking area or lot to the closest point of the nearest building that such parking area or lot is required to serve. Off-street parking facilities shall be located in accordance with the following:

a. For single-family, manufactured housing units, duplexes, or motels: on the same lot as the use it serves.

b. For multiple-family dwellings or boardinghouse: within 200 feet of the building it serves.

c. For hospital, convalescent facility: within 300 feet of the building it serves.

d. For uses other than those specified above: within 500 feet of the building it serves.

4. Trailers, boats, campers, mobile homes, house trailers and similar vehicles shall not be parked within 10 feet of the pavement edge.

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D. Size and Location of Parking Spaces.

Land Use	Parking Requirement
Residential	1 space per dwelling unit.
Senior housing developments	1 space per unit.
Manufactured housing community	1 space for each manufactured housing unit.
Motel, tourist home or boardinghouse	1 space per sleeping unit, guestroom or suite.
Hospital, nursing home or institution	1 space for every 4 beds.
Theater	1 space for each 4 seats, except 1 space for each 6 seats in excess of 800 seats.
Church, auditorium, or similar place of assembly	1 space for each 4 seats or 8 feet of bench length. 75 square feet of gross floor space if chairs are removable.
Medical or dental clinic	1 space for each 250 square feet.
Bank, business or professional office with on-site customer service	1 space for each 300 square feet.
Warehouse, storage	1 space per 1,000 square feet.
Food and beverage place with sales and consumption on premises	1 space for each 4 seats plus 1 for each 2 employees.
Fast food/drive-through businesses	1 space for each 250 square feet.
Grocery store and retail	1 space for each 200 square feet.
Retail: Selling bulky items such as furniture, appliance, automobiles	1 space for each 500 square feet of gross floor area.
Manufacturing uses and all industries	1 space for each 2 employees based on the maximum employment in any 1 shift with a minimum of 2 spaces.
Recreational vehicle parks	1 space for each recreational vehicle space plus 1 guest space for each 3 recreational vehicle spaces.

E. Shared Parking.

1. The planning commission may, upon application for a conditional use by owner or lessee of any property, authorize the joint use of parking facilities by the following uses or activities under the conditions specified in this section:

a. Up to 50 percent of the parking facilities required by this chapter for a use considered to be primarily a nighttime use or vice versa; provided, that such reciprocal parking area shall be subject to the conditions set forth in this section.

b. Up to 100 percent of the parking facilities required by this chapter for a church or auditorium incidental to a public or parochial school may be supplied by parking facilities for a use considered to be primarily a daytime use, provided such reciprocal parking area shall be subject to the conditions set forth in this section.

c. For the purposes of this section, the following uses are typical daytime uses: business offices, retail, manufacturing or wholesale buildings. The following uses are considered typical or nighttime and/or Sunday uses: residential, auditoriums incidental to public or parochial schools, churches, dance-halls, theaters, restaurants and taverns.

2. The conditions required for shared parking are as follows:

a. The building or use for which application is made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.

b. The applicant shall show that there is not substantial conflict in the principal operating hours of the buildings or uses for which the shared use of the parking facilities is proposed.

c. Parties concerned in the shared use of off-street parking facilities shall evidence agreement for such use joint use by proper legal instrument approved by the city attorney as to form and content. Such instrument when approved as conforming to provisions of this title shall be recorded in the office of the city clerk and copies thereof shall be filed with the planning commission.

F. Development and Maintenance of Parking Facilities. Where parking required by this chapter equals five or more spaces, the spaces shall be developed and maintained in the following manner:

1. Off-street parking areas shall be paved or surfaced with screened gravel, crushed rock or better, and shall be graded and drained to dispose of all surface water. In no case shall such drainage be allowed across a public sidewalk.

2. Off-street parking areas which adjoin a residential use on adjoining property shall be separated from such property by an approved sight-obscuring fence or landscaping, such as a hedge, not less than six feet in height.

G. Loading Space Required.

1. In all districts, buildings or structures to be built which receive and distribute material and merchandise by truck shall provide and maintain one off-street loading berth for each 20,000 square feet of gross floor area or fraction thereof, which space shall be of sufficient length and width to accommodate the largest vehicle loading or unloading, but in no case less than 10 feet in width and 25 feet in length and 14 feet in height.

2. Access to the loading space shall be from alleys when possible.

3. No off-street loading area shall be located in a required front yard.

4. Off-street loading in all districts shall be provided such that no vehicle occupying the space extends onto a public road.

5. Each berth or berths shall be surfaced and maintained so as to eliminate dust and mud. (Ord. 954 § 2, 2001)

17.03.020 Landscaping, screening and property maintenance.

A. Purpose. The purpose of this section is to establish landscape, screening, and property maintenance standards to enhance the aesthetic appearance of commercial and industrial property throughout the city. In addition, the standards are established to protect the health and safety of the residents and users of the properties. A landscape plan and maintenance schedule are required as part of the review process.

B. Landscape Screening.

1. Screening shall provide a filtered, but not blocked view and may be provided by existing vegetation, landscaped areas, including the use of hedges, berms, fencing or a combination thereof. The use of vegetation (trees and columnar shrubs) is encouraged.

2. Perimeter screening shall be provided as follows:

a. An all season visual separation and windbreak shall be provided between commercial uses when adjacent to a residential use or district. Perimeter landscaping shall be provided along the side and rear property lines and shall shield the views of industrial or commercial land uses, including outdoor storage, service, parking and loading areas, from roads and adjacent uses. If, however, the rear of the site is adjacent to an agricultural use, no rear yard perimeter screening is required.

b. A 50-foot wide minimum vegetative buffer strip shall be provided between an industrial use and a residential district. The vegetative buffer shall consist of trees that attain a minimum of seven feet in height. Additional screening may be required between dissimilar land uses, at the discretion of the planning commission.

c. If a parking lot is located adjacent to a street, a perimeter screening minimum of 10 feet in width shall be provided between the street and the parking lot.

d. Trees and columnar shrubs shall be a minimum of four feet in height at the time of planting and should grow to a minimum of eight feet at maturity.

e. Screening requirements may be relaxed if warranted by the use of clustering or shared access, at the discretion of the planning commission.

3. Interior screening shall be required for parking areas according to the following minimum requirements:

a. Landscaping shall be provided at a minimum of 10 percent of the parking area.

b. One tree for every 10/20 (single/double) row parking spaces shall be provided, for summer shade.

c. Minimum tree size at planting shall be two-inch caliper.

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d. Screening shall include shrubs suitable to be maintained at a height of three feet.

e. Avoid obstructing views of crosswalks, intersections, and streetlights.

C. Landscape Materials and Design Requirements.

1. The use of plant materials to achieve a variety of heights, shapes and/or textures upon maturity is encouraged.

2. A combination of evergreen and deciduous trees, shrubs and groundcover shall be used.

3. The use of drought-tolerant plant materials is encouraged.

4. The retention of existing trees is encouraged.

5. Fencing materials shall be attractive, durable, and complement or blend with the natural colors of the surrounding environment.

D. Maintenance.

1. Provisions shall be made for the ongoing maintenance, including irrigation as necessary, of required landscape areas.

2. Trees and shrubs in required landscaped areas, which die within 12 months of planting, shall be replaced by the property owner.

3. All yards shall be maintained such that there will be no accumulation of silt, mud or standing water causing unsightly or hazardous conditions either within the yard or on adjacent properties.

4. All yards and buildings shall be maintained in a neat, tidy manner, including trimming and upkeep of all landscaped areas, and the removal of debris and unsightly objects.

5. All undeveloped land areas shall be maintained in permanent vegetative cover, or alternatively be landscaped with an approved combination of materials to control runoff.

6. All yards shall be maintained free of noxious weeds consistent with the regulations of the Pend Oreille County weed board. (Ord. 954 § 2, 2001)

17.03.030 Accessory structures.

A. An accessory structure shall comply with the front and side yards setbacks required in the district in which the structure is located.

B. An accessory structure may be located in a required rear yard, but shall be at least five feet from any lot line. (Ord. 954 § 2, 2001)

17.03.040 Utility installations.

A. Purpose. The purpose of this section is to provide standards for the installation and maintenance of needed utility facilities in order to provide a safe and efficient municipal service system while ensuring compatibility with surrounding uses.

B. Standards.

1. Whenever the lot on which the utility use is located is in or adjoins a residential zone, it shall be suitably landscaped so as to screen it from view from properties in the vicinity. Such landscaping shall be continually maintained by the utility provider.

2. Safety fencing, a minimum of six feet in height, shall be erected and maintained around utility installations and structures in which there is any safety hazard whatsoever for children. All structures shall be located such that the safety fence does not encroach on any yard requirements in the district in which the use is located.

3. The utility station shall not be used for offices, servicing of trucks, storage of equipment, or such similar uses unless it is a use permitted outright in the district.

4. Lighting shall be directed away from adjacent properties, streets, and sidewalks to eliminate glare to surrounding properties, pedestrians, and drivers.

5. No objectionable odor is permitted. (Ord. 954 § 2, 2001)

17.03.050 Home occupation.

A. Purpose. The provision for home occupations is to allow for gainful employment within the home while maintaining the residential character of the dwelling and surrounding neighborhood, while eliminating the need for a conditional use permit.

B. Standards.

1. Home occupations may be conducted in any zoning district; provided, that the home occupation complies with the following standards:

a. The home occupation shall be conducted entirely within the residence or lawfully erected and maintained accessory structure(s);

b. No more than an area equal to, but not exceeding, 25 percent of the main structure's footprint or 500 square feet, whichever is less, shall be devoted to the business;

c. No alteration to the appearance of the dwelling unit shall be made which is non-residential in nature;

d. No more than two people in the home shall be employed in the business;

e. The home occupation shall not generate vehicular traffic, which will interfere with residential traffic circulation;

f. There shall be no commercial advertising, except one non-luminous sign bearing the name and occupation of the resident not exceeding six square feet in area and placed flat against the building may be permitted;

g. There shall be no window display nor shall sample commodities be displayed outside the buildings;

h. The home occupation shall not create or cause hazards or nuisances due to noise, dust, vibration, odors, smoke, glare, electrical interference, radio or television reception or other adverse impacts;

i. The home occupation shall not involve the use or storage of explosive, toxic, combustible or flammable materials in a quantity that exceeds the amounts incidental to normal residential use;

j. Materials or commodities delivered to or from the residence which are of such bulk or quantity as to require delivery by a commercial motor vehicle or a trailer, or the parking of customer's automobiles in a manner or frequency causing disturbance or inconvenience to nearby residents or so as to necessitate a public parking lot shall be prima facie evidence that the occupation is a primary business and not a home occupation.

2. The number of home occupations at any one address is not limited, except that the cumulative impact of all such businesses shall not exceed the standards in this section. (Ord. 954 § 2, 2001)

17.03.060 Adult entertainment uses.

A. Purpose. The purpose of adult entertainment regulations is to establish a protection setback for adult entertainment uses to minimize impacts to schools, public parks, public libraries, state-licensed day care facilities, youth centers, churches and residential uses. It is also intended to disperse adult concessions, avoiding a concentration of these uses in any one area.

B. Adult Entertainment Permitted. Adult entertainment uses shall be permitted by a conditional use permit in the C-2 zone pursuant to the zoning standards listed for those zones and the additional standards included in this chapter, provided the following findings are met:

1. The proposed use is compatible with surrounding planned and existing uses.

2. The proposed use poses no threat to the public's health, safety or general welfare.

3. The proposed use shall be sited, designed and operated in a manner consistent with the goals, policies and programs of the comprehensive plan.

C. Location Standards.

1. Any adult concession locating in the city shall maintain a minimum distance of 600 feet from the following;

a. Property used for the schools, both public and private.

b. All residential zones.

c. Property used for public parks and/or public libraries.

d. State-licensed day care facilities.

e. Youth or community centers.

f. Churches, cemeteries or other religious facilities.

g. Other adult entertainment uses.

h. Other facilities or land uses which provide as a substantial portion of their activities the provision of services to children and/or youth.

2. The 600-foot distance shall be measured by following a straight line, without regard to intervening structures or obstacles, from the nearest point of the property line upon which the proposed use is to be located, to the nearest point of the property from which the proposed land use is to be separated.

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D. Development Standards. The development standards for adult concessions shall be the same as the applicable zoning regulations for the zoning district in which they are to be located, except as follows:

1. No electronic reader boards shall be allowed. Illustrations depicting partially or totally nude males or females shall not be posted or painted on any exterior wall of a building, door or any apparatus attached to such a building.

2. Parking areas shall be adequately illuminated to discourage loitering.

3. Landscaping and building lighting shall be designed to enhance the site's appearance.

4. Exterior building colors and materials shall be of natural or earth tones and be consistent with the character of the buildings within the same district.

E. Violations. Any person, co-partnership, association, firm or corporation violating any of the provisions of this chapter shall be guilty of a gross misdemeanor and upon conviction shall be punished by fine or imprisonment in accordance with Chapter 1.16 NMC, General Penalty. (Ord. 954 § 2, 2001)

17.03.070 Exceptions/projections.

A. Eaves, cornices, awnings and permitted signs may project not more than two feet into a required yard.

B. Steps, terraces, platforms and porches having no roof coverings; provided, that they do not exceed 42 inches in height above the finished grade, may occupy the front or side yard.

C. Smokestacks, chimneys, and flagpoles may exceed the height limit for the district in which they are located. (Ord. 954 § 2, 2001)

17.03.080 Fences.

A. No fencing or other sight obstruction which constitutes a hazard to the traveling public within the area designated as the "clear view area" shall be allowed on a corner lot. The clear view area is determined by measuring 10 feet from the point of two intersecting streets along the property lines and then connecting the two end points with a straight line

forming the hypotenuse of the clear view area. Branches on trees within the area shall be removed at the trunk up to a minimum level of seven feet above finished ground level. Shrubs shall be maintained no higher than three feet above finished ground level within the area.

B. Within one year after development of the first business in an area zoned for industrial uses, a fence or wall shall be installed along the side of any part of the property adjoining an R, C-1, PF or C-2 zone. The fence shall not exceed six feet in height.

C. Hedges and fences no higher than six feet.

D. No electrical or barbed wire fences are permitted. (Ord. 954 § 2, 2001)

17.03.090 Signs.

A. Purpose. The purpose of this section is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, help preserve the historic buildings and areas, preserve the scenic and natural beauty of designated areas, and provide a more enjoyable and pleasing community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment.

B. General.

1. The following sign standards by zone district are intended to include every zone in the city. Only signs as described herein and as may be described under "temporary signs" and "exceptions" will be permitted in each particular zone.

2. If any zone is omitted from this chapter or if a new zone is created after the enactment of this chapter, no sign shall be permitted therein until this chapter shall be amended to include this zone.

C. Signs in Residential Zones.

1. General. The term “residential” shall apply to all zones designated as R-1, R-2, R-3 and R-4.

2. Size. One sign not exceeding two square feet in area shall be permitted per dwelling unit. For multiple dwellings, one or more additional signs totaling 12 square feet shall be permitted.

3. Location. Permitted signs may be anywhere on the parcel, except as noted below:

a. Signs may not be erected in areas restricted as noted elsewhere in this title.

b. Signs may not project beyond any property lines.

4. Ground Signs. Ground-mounted signs shall not exceed five feet in height, and not to exceed 15 square feet.

5. Wall Signs. Signs mounted on the building shall be flush with the wall surface and shall not project above the eave or roof line.

6. Content. The sign per dwelling unit shall indicate only the name of the occupant and may include the address. The additional sign area permitted for multiple dwellings shall be only for the identification of the building. In the case of an approved home occupation, the sign may bear the name of the business or service offered.

7. Illumination. Illumination, if used, shall be what is known as white and not colored light and shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign or upon the property on which the sign is located and shall not spill over the property lines in any direction except by indirect reflection.

D. Signs in Commercial Zones, Industrial and Public Facility Zones. Signs in the C-1, C-2, I and PF zones shall comply with the following standards:

1. Wall Signs. The total area for all wall signs shall not exceed 75 square feet. In the case of projecting signs, sign area shall be calculated for one side of the sign. Signs flush against the building face may be located anywhere on the surface of the building. Signs projecting from the building face may project no more than six feet from the face of the

building, have a maximum height of five feet and must have a minimum clearance of eight feet above a public sidewalk and 15 feet above public driveways or alleys.

2. Pole Signs. Pole or ground-mounted signs are permitted when the building does not cover the full width of the parcel upon which it is located. The total area for a pole sign shall not exceed 60 square feet. Such a sign may extend up to 20 feet above the ground level to the top of the sign, except as may be required by this title.

3. Marquee Signs. Marquee signs may be on the vertical faces of marquees and may project below the lower edge of the marquee not more than 12 inches. The bottom of the marquee signs shall be no less than eight feet above the sidewalk or grade at any point.

4. Sidewalk Signs. Sidewalk signs no larger than 12 square feet per side, containing no moving parts and no lights, may be allowed during business hours. Sidewalk signs must be placed immediately in front of its place of business so as not to be a hazard to either pedestrians or vehicles.

5. Identity Signs. One ground-mounted identity sign is permitted not exceeding six feet in height with a maximum sign area of 60 square feet.

6. Miscellaneous Signs. All other signs on the property indicating services, products, prices, trade information, or other information shall not exceed, in total, 80 square feet in area.

7. Special advertising devices such as inflatables, floating signs and search lights, shall require a temporary permit.

E. Nonconforming Uses and Nonconforming Signs.

1. Any building or land use not conforming to the provisions for the zone in which it is located shall, nevertheless, comply with all the provisions of this sign code for the conforming zone.

2. Signs existing and not conforming to the provisions of this chapter, but which were constructed in compliance with previous regulations shall be regarded as nonconforming signs. Such signs may be maintained in their present condition unless hazardous but may

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not be altered, erected, or relocated unless in conformity with the sign code.

F. Exemptions. The following types of signs are exempted from all the provisions of this chapter, except for construction and safety regulations and the following requirements:

1. Public Signs. Signs of a noncommercial nature and in the public interest erected by or on the order of a public officer in the performance of his public duty; such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest, and the like;

2. Institutional. Signs setting forth the name or any simple announcement for any public, charitable, educational, or religious institution located entirely within the premises of that institution up to an area of 24 square feet. Such signs may be illuminated in accordance with the regulations contained hereinafter. If building-mounted, these signs shall be flat wall signs and shall not project above the roofline. If ground-mounted, the top shall be no more than six feet above ground level;

3. Integral. Names of buildings, dates of erection, monumental citations, commemorative tablets, and the like when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure;

4. Private Traffic Direction. Signs directing traffic movement onto premises or within premises not exceeding three square feet in area for each sign. Illumination of these signs shall be permitted in accordance with the section hereinafter included on illumination. Horizontal directional signs on and flush with paved areas are exempt from these standards;

5. Small Signs. Signs not exceeding two square feet in area attached flat against the building, stationary, and not illuminated announcing only the name and occupation of building tenant;

6. Rental. Signs on the premises announcing rooms for rent, room and board, apartment or house for rent and not exceeding four square feet in area;

7. Vehicles. Signs on vehicles of any kind, provided the sign is painted or attached

directly to the body of the original vehicle and does not project or extend beyond the original manufactured body proper of the vehicle.

G. Prohibited Signs. Prohibited are signs which:

1. Contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency;

2. Contain or are an imitation of an official traffic sign or signal or contain the words "stop," "go slow," "caution," "danger," "warning," or similar words;

3. Are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;

4. May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment;

5. Are erected in such a position as to completely blanket another sign already in place on either side. A sign is said to be blanketing when it hides other signs or a substantial portion thereof at a distance of 25 feet.

6. Are off-premises signs, including billboards, except directional signs and signs of public interest. (Ord. 954 § 2, 2001)

17.03.100 Manufactured housing communities.

A. Purpose. The purpose of this section is to ensure a suitable living environment for owners of manufactured homes located within manufactured home communities. The following standards are necessary to provide for the health, safety, and convenience as well as to provide affordable, single-family style housing while being compatible with the character and scale of surrounding residential neighborhoods.

B. Standards.

1. Permitted uses shall be single-family residential with accessory uses in conjunction with common areas and open spaces.

2. The minimum site area of a manufactured housing community shall be two acres; the maximum site area for a manufactured housing community, or combination of adja-

cent parks, shall be 15 acres. Housing communities shall be considered “adjacent” to one another unless they are separated by an unrelated land use, and not merely by a public or private street, easement, or buffer.

3. Buffering and/or screening shall be required along the exterior boundaries of the project with no housing unit located closer than 20 feet from the outside property line. A landscaped strip with a minimum width of five feet shall adjoin all public rights-of-way and be improved with planting and fencing to screen the manufactured housing units from view while not impeding sight distance requirements for drivers exiting the community. Additionally, the park shall provide visual screening and landscaping as required in perimeter setback areas and open space. Landscaping may consist of suitable ground-cover, shrubs and trees; provided, that they are installed prior to the first occupancy of the park, and are of such species and size as would normally fulfill a screening function within five years of being planted. Site development shall be sensitive to the preservation of existing vegetation. All trees, flowers, lawns and other landscaping features shall be maintained by the park management in a healthy, growing condition at all times. The following minimum requirements for landscaping and screening shall apply:

a. Along the exterior site boundary, a minimum 10-foot wide planting strip of ever-green trees and shrubs.

b. Where abutting a major arterial, the planting strip shall be a minimum of 20 feet wide; provided, that a minimum 10-foot strip may be considered sufficient when it can be demonstrated that with earth sculpturing and contouring, or a sight-obscuring fence, the development is buffered sufficiently.

c. Perimeters of common parking areas and bulk storage areas shall be landscaped to provide visual screening.

4. Manufactured housing communities shall dedicate and improve at least 10 percent of developable site area as common open space with each common open space no smaller than 5,000 square feet in area.

5. Access to manufactured housing communities shall not be from a local or collector street, with no individual lot or residence having access directly to a public right-of-way outside the community boundaries.

6. Streets, drives, and parking areas shall provide safe and convenient access to units and shall be laid out to discourage outside traffic from traversing the community.

7. In addition to occupant parking, guest and service parking shall be provided within the boundaries of the park at a ratio of one parking space for each four manufactured home lots, and shall be distributed for convenient access to all lots and may be provided by a parking lane and/or separate parking areas. Clubhouse and community building parking facilities may account for up to 50 percent of this requirement.

8. The following minimum lot standards shall apply in addition to those stated in subsections (B)(1) through (B)(9) of this section:

Manufactured Housing Minimum Lot Standards for Subdivisions	
Minimum lot size	4,500 square feet
Minimum lot width (at building line)	45 feet
Minimum lot depth	100 feet

9. Each single-family residence shall be connected separately to the water and sewer system.

C. Procedures for Review and Approval.

1. Binding Site Plan. A manufactured housing community under single ownership or control, including ownership by a condominium association, shall additionally comply with an approved binding site plan that shall preclude the necessity to plat the community or comply with any other subdivision laws or ordinances. (Reference binding site plan, NMC 17.05.100.)

2. Plat Map. If a manufactured housing community is to be subdivided with intent to sell lots to individuals who may then locate manufactured housing units on the property, then the manufactured housing community project shall be considered a manufactured

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housing community subdivision and shall be subject to the platting process.

3. Amendments – Binding Site Plan. An approved binding site plan may be modified or amended at the request of the applicant upon receiving administrative approval by the city; provided, that modification or amendment affects the external impacts of the manufactured housing community, or is determined by the city to be substantial in nature, then such modification or amendment shall be resubmitted to the planning commission for review. (Ord. 954 § 2, 2001)

17.03.110 Recreational vehicle parks.

A. Purpose. Recreational vehicle parks provide commercial transient housing to allow people to enjoy the outdoors. The purpose of this section is to provide standards for recreational vehicle parks, including campgrounds to ensure that such operations are compatible with the surrounding uses.

B. Development Standards.

1. The minimum size of a recreational vehicle park shall be one acre.

2. The maximum gross density shall be one recreational vehicle space per each 2,000 square feet of land area.

3. No less than 10 percent of the total site area shall be provided as defined recreational space. The recreational space shall be easily accessible and shall be improved and maintained in such a manner so as to provide adequate recreational facilities for the users of the recreational vehicle park. The planning commission may waive this requirement if it determines that recreational facilities located adjacent or in close proximity to the site will be sufficient to satisfy the recreational needs of users of the park.

4. Each recreational vehicle space shall have a minimum width of 20 feet.

5. There shall be a minimum side-to-side dimension of eight feet between units and a minimum end-to-end dimension of 10 feet between units.

6. Vehicle spaces shall be sited so that the following minimum setbacks shall be maintained:

a. Twenty-five feet from a public right-of-way;

b. Five feet from an interior private street; and

c. Fifteen feet from adjacent properties.

7. Five-foot-wide pedestrian walkways shall be provided from the recreational vehicle spaces to all service buildings and facilities, and refuse collection areas. The walkways shall be hard surfaced, well drained, and well lighted.

8. All interior streets shall comply with adopted city standards for streets of that class. Paving on park streets shall comply with city street design standards. All interior streets shall be well drained, well lighted, and continuously maintained in operable condition.

9. No recreational vehicle shall remain in place in a recreational vehicle park for more than 120 days in any one-year period.

10. Solid waste shall be collected, stored, and disposed of regularly to prevent health hazards, rodent infestation, breeding insects, or accident or fire hazards. Individual or grouped refuse containers must be screened from view except on collection day.

11. All utilities shall be constructed and maintained in accordance with all applicable state and local codes and regulations. The following requirements for utilities shall apply:

a. A water supply system shall be provided for each space and shall be connected to the city of Newport's water supply system.

b. Each recreational vehicle park shall be provided with one or more easily accessible water supply outlets for filling recreational vehicle water storage tanks.

c. An adequate and safe sewage disposal system for emptying sewage holding tanks/containers shall be provided to accommodate each space and shall be connected to the city's sewer system.

12. Restroom facilities shall be provided for each gender, shall be properly identified and each shall contain showers and toilets connected to the city's sewer utility, the minimum number of which shall be one commode and one shower for each 20 recreational vehicle

sites and shall be installed in accordance with IBC and local regulations.

13. Refuse containers for solid waste shall be sized and provided in sufficient quantity to adequately handle one week of generated refuse. Park garbage shall be picked up at least once a week. Park personnel shall monitor garbage containers for cleanliness and maintain the park free of any uncontrolled garbage and refuse.

14. Each space shall be provided with an underground electrical system.

15. All recreational vehicle spaces shall be well marked and numbered.

16. In addition to the regulations above, all recreational vehicle parks shall comply with rules and regulations of the Washington State Department of Health and the N.E. Tri-County Health District.

C. Procedures for Review and Approval. A recreational vehicle park will require approval of a binding site plan in accordance with NMC 17.05.100. (Ord. 954 § 2, 2001)

17.03.120 Nonconforming uses and structures.

A. Purpose. The purpose of this section is to define the conditions under which a lawfully constructed building or the lawful use of any building or lot existing at the time of passage of the ordinance codified in this title may be continued, although such building or use does not conform to the provisions of this title.

B. Nonconforming Uses. If a nonconforming use is discontinued for a period of six months or more, future use of the land or building shall be in conformity with the uses permitted in the district in which the property is located.

C. Expansion of Nonconforming Uses of Land. Nonconforming uses of land shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption of this chapter, unless such use is authorized under conditional use provisions of the applicable district and a conditional use permit has been issued.

D. Nonconforming Structures.

1. Nonconforming buildings and structures shall not be enlarged or altered in any

way that increases the nonconformity without the issuance of a variance in accordance with NMC 17.05.040.

2. In the event that a nonconforming structure is destroyed by any means to an extent of more than 50 percent of its actual value at the time of its destruction as determined by a licensed appraiser paid by the owner, the use of the structure and the lot or lots upon which it is located shall thereafter conform to all requirements of the district within which it is located. However, property zoned residential which has been continuously used for residential purposes that is later rezoned commercial may be rebuilt to its original size and used for residential purposes if destroyed by a catastrophic event. Any building sought to be repaired or restored after being damaged shall be restored and repaired within six months in order to be entitled to the provisions of this section. (Ord. 1034 § 1, 2006; Ord. 1028 § 2, 2005; Ord. 954 § 2, 2001)

Chapter 17.04

LAND DIVISION

Sections:

- 17.04.010 Purpose.
- 17.04.020 Scope and compliance.
- 17.04.030 Lot line adjustments.
- 17.04.040 Short plats.
- 17.04.041 Prohibition on further division.
- 17.04.050 Preliminary subdivision plats.
- 17.04.060 Binding site plans.
- 17.04.070 Final plats.
- 17.04.080 Design standards.
- 17.04.090 Plat vacation and alteration.
- 17.04.100 Bonds.
- 17.04.110 Monumentation.
- 17.04.120 As-built drawings.

17.04.010 Purpose.

The purpose of this chapter is to:

- A. Regulate the division of land and promote the public health, safety and general welfare of the residents of Newport in accordance with standards established by the state to prevent the overcrowding of land;
- B. Provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout Newport, with particular regard to the avoidance of congestion in the streets and highways, the provision of suitable ingress and egress, and the creation of safe and adequate pedestrian and traffic movements appropriate to the various uses of land and buildings;
- C. Protect the character and the social and economic stability of Newport and encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development;
- D. Ensure that public facilities, such as streets, water, sewerage, parks and recreation areas and other public services are sufficient and concurrent with development;
- E. Ensure proper legal descriptions and monumenting of divided land; and
- F. Provide for the expeditious review and approval of proposed subdivisions, which conform, to the comprehensive plan, zoning stan-

dards and local plans as adopted under the Growth Management Act. (Ord. 954 § 2, 2001)

17.04.020 Scope and compliance.

A. Any division, redivision, platting or subdivision or any division of land containing a dedication of any part to any public purpose, such as a public street, highway, or public open space, shall comply with the provisions of this chapter.

B. The provisions of this chapter shall not apply to the following:

- 1. Cemeteries and burial plots while used for that purpose;
- 2. Division of land into lots or tracts, each of which is one-sixty-fourth of a section of land or larger, or 10 acres or larger, if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this item which borders on a street or road, excluding limited-access streets or roads, the lot size shall be expanded to include that area which would be bounded by the centerline of the road or street, and the side lot lines of the lot running perpendicular to the centerline;
- 3. Divisions of land, which are the result of the actions of governmental agencies, such as condemnation for road construction purposes;
- 4. Division of land made by testamentary provisions, or the laws of descent;
- 5. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width, depth, and area for a building site;
- 6. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with city regulations;
- 7. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are to be placed upon the land when a binding site plan has been approved for the use of the land;

8. A division for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division which contains insufficient area for a building site; and

9. Divisions of land into lots or tracts if:

a. The improvements constructed or to be constructed thereon will be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest;

b. A city, town or county has approved a binding site plan for such land; and

c. The binding site plan contains thereunto the following statement:

All development of the land described herein shall be in accordance with the binding site plan, as it may be amended. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest.

(Ord. 954 § 2, 2001)

17.04.030 Lot line adjustments.

A. Purpose. A lot line adjustment allows an established lot line to be moved, without increasing the number of lots. The purpose of this section is to implement the authority granted to the city by Chapter 58.17 RCW and to conform to its provisions, which govern the platting and subdivision of land.

B. General Provisions. Lot line adjustments shall be processed in accordance with NMC 17.05.070 and 17.06.030(G). (Ord. 954 § 2, 2001)

17.04.040 Short plats.

Short plats, the division of land into four or fewer parcels, shall be processed in accordance with NMC 17.05.080 and 17.06.030(G). (Ord. 954 § 2, 2001)

17.04.041 Prohibition on further division.

Property in short plat subdivision shall not be further divided in any manner within a period of five years, except if the short plat contains fewer than four lots. If the short plat contains fewer than four lots, the property owner may alter the short plat within the five-year period to create up to a total of four lots within the original short plat boundaries. (Ord. 954 § 2, 2001)

17.04.050 Preliminary subdivision plats.

Preliminary subdivision plats, which is the division of land into five or more parcels, shall be processed in accordance with NMC 17.05.090 and 17.06.030. (Ord. 954 § 2, 2001)

17.04.060 Binding site plans.

The procedures regulating binding site plans are established in accordance with RCW 58.17.100 and shall be processed in accordance with NMC 17.05.100. (Ord. 954 § 2, 2001)

17.04.070 Final plats.

Final plats, which is the final approval of a preliminary subdivision plat, shall be processed in accordance with NMC 17.05.100 and 17.06.030. (Ord. 954 § 2, 2001)

17.04.080 Design standards.

A. Purpose. The purpose of design standards is to create land divisions that are efficient and safe and that fit within the overall pattern of the community.

B. General Provisions.

1. Land, which is found to be unsuitable due to bad drainage, slopes of more than 20 percent or land with rock or unstable soil conditions, shall not be subdivided unless the plans include the design and installation of devices necessary for correction or control of conditions.

17.04.080

2. If existing utilities are not adequate or cannot be practically installed, a proposed land division may be rejected until such time as necessary modifications to the system(s) are made to allow for adequate service. As a condition of a land division approval, the city may require the costs of modification be borne by the developer.

3. The developer will be required to provide utilities on-site and off-site to meet the minimum level of service established in the Newport comprehensive plan.

C. Streets.

1. The on-site street system shall be coordinated with existing, proposed, and anticipated streets beyond the land that is being divided into lots. The arrangement of streets shall provide for the continuation of principal streets and adjacent properties for the convenient movement of traffic, effective fire protection, efficient provision of utilities and conformance with the comprehensive plan.

2. Whenever connections to anticipated or proposed surrounding streets are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property, or to the edge of the

undeveloped portion of a single tract, at the point where the connection to the anticipated or proposed street is expected. In addition, the city may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles.

3. Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm-water runoff and to conform as closely as practicable to the original topography.

4. All intersecting streets shall be arranged to intersect as nearly at right angles as possible.

5. Street jogs with centerlines offset by less than 100 feet shall not be allowed.

6. Clear visibility shall be provided for a minimum distance of 10 feet at intersections, as measured along the property line of the streets based on street alignment and gradients.

7. All streets will be designed by a professional engineer.

8. The following design standards shall apply for dedicated rights-of-way:

	Local or Residential	Collector	Arterial
Required right-of-way	60 feet	60 feet	60 feet
Required pavement width	36 feet	36 feet	36 feet
Design speed	25 miles per hour	35 miles per hour	35 miles per hour
Minimum diameter of turn-around for cul-de-sacs	60 feet	Not allowed	Not allowed
Minimum length of cul-de-sacs	300 feet	N/A	N/A
Street grades not to exceed	6%	6%	6%

9. After sewer and water utilities have been installed, the developer shall construct streets to the widths prescribed above with the construction materials and methods in conformance with “Standards and Specifications for Municipal Public Works Construction” prepared by the American Public Works Association for Class B plant mix asphalt or better.

10. Streets not dedicated to the public must be clearly marked on the face of the plat.

D. Block Sizes.

1. Blocks shall have sufficient depth to provide for two tiers of lots, which meet the development standards of the district in which the property is located. The lengths, widths and shapes of blocks shall be such as are appropriate for the location but block lengths in residential zones shall not be less than 300 feet except where possible, block length, width, and layout shall be consistent with that of adjacent layouts unless topographical conditions justify variation.

2. The developer may be required to provide an easement through a block to create pedestrian connectivity at a mid-block point when determined to be essential to provide circulation or access to schools, parks, retail areas, or other destination points. Minimum width of a pedestrian walkway placed in the easement shall be four feet.

E. Access.

1. Every lot shall be provided with frontage on or access to a public street via a private street.

2. If access to the subdivision is required across land under the jurisdiction of another local government, the planning commission may request assurance from the local government that access is legally established, and that the access road is adequately improved, or that a guarantee has been executed and is sufficient to assure the construction of the access road.

F. Lot Frontage.

1. All lots shall have a minimum lot frontage of 20 feet.

2. Flag lots shall not be approved unless the frontage and lot width standards are met. No more than two lots may be accessed from a single flag stem.

G. Lot Dimensions. If lots within a proposed short plat or preliminary subdivision plat are more than double the minimum required area for the zoning district, the planning commission may require that those lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve potential lots.

H. Curbs, Sidewalks, and Planter Strips.

1. Concrete curbs and sidewalks shall be constructed in accordance with the American Public Works Association Standards or as required and approved by the public works director.

2. Handicap ramps shall be provided in sidewalks at all intersections.

3. Curbs and sidewalks shall be constructed in accordance with the following:

a. Concrete curbs shall be six inches high or shall have a rolled profile as approved by the city engineer.

b. Sidewalks and planter strips shall be included within the dedicated non-pavement right-of-way of all streets as follows:

i. Sidewalks in residential zones shall be a minimum of four feet in width, unless along a principal arterial where the sidewalk shall be five feet in width. In addition, a four-foot planter strip shall be provided between the curb and the sidewalk.

ii. Sidewalks in commercial zones shall be a minimum of 10 feet in width, unless otherwise specified by the building department.

iii. Sidewalks in industrial zones shall be a minimum of five feet in width.

I. Street Amenities.

1. One street tree shall be planted within the planting strip of the public right-of-way for every 40 feet of lot frontage along the existing or proposed road. A waiver may be granted by the city council if there are trees growing along the right-of-way or on the abutting property, which, in the judgment of the city council, comply with this regulation.

2. Streetlights shall be provided so as to provide a safe environment for the residents and visitors to the subdivision. The location and amount of lighting shall be approved by the city superintendent. The developer shall be

responsible for the cost of installation of all required lights.

3. Before occupancy of any building, the city will install all required street signs. The developer shall be responsible for the cost of installation of all required signs.

J. Water Facilities.

1. All lots shall be connected to city water. The developer shall ensure that necessary improvements and extensions are made so as to provide water sufficient for domestic use and fire protection. All water extensions shall be approved by the city superintendent.

2. All water utility installations including fire hydrants shall be designed in accordance with the American Public Works Association Standards or as required by the city superintendent. All materials shall be American Water Works Association approved.

3. Any water main shall be a minimum of eight inches in diameter. In deciding the size of a new water line, the size shown in the Newport water system plan and the planned growth of the surrounding area shall be considered.

4. Fire hydrants are required in all subdivisions. They shall be spaced at distances not to exceed 500 feet in single-family residential areas and at distances not to exceed 300 feet in all other areas, per International Fire Code.

K. Drainage and Storm Sewers.

1. Lots shall be graded so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the proposed storm drain pattern of the area. Stormwater runoff from individual lots shall be detained and treated on-site, so that the general storm drainage pattern in the area will not be disrupted.

2. A drainage plan will be prepared by a professional engineer.

3. Drainage control and stormwater easements shall be provided for in the proper locations, with sufficient width in accordance with professional engineering standards.

L. Sanitary Sewer Facilities.

1. The developer shall install sanitary sewer facilities to all lots in accordance with the American Public Works Association Standards or as required and approved by the city public works director.

2. Sanitary sewers shall be installed to serve every lot. No individual disposal systems or treatment plants shall be permitted.

3. No gravity sewer main shall be less than eight inches in diameter unless justified and approved by the public works director and the Washington State Department of Ecology.

M. Public Utilities and Easements.

1. All existing and proposed utilities and easements shall be shown on the preliminary plat.

2. All new utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground.

3. Underground service connections to the property line of each platted lot shall be installed by the developer. The developer shall coordinate with the city and utility companies for the establishment of easements within the subdivision.

N. Dedication of Public Park.

1. Land within a short plat or preliminary subdivision that is indicated in the comprehensive plan as public open space may be required to be reserved by the developer for purchase by the public within a one-year period of time after final subdivision approval.

2. If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city council shall adopt the designated name.

O. Naming of Divided Land. The proposed name of a short plat or subdivision shall not duplicate, or closely approximate phonetically, the name of any other division of land.

P. Protective Covenants. If a property owner has covenants or deed restrictions on a proposed short plat or subdivision, the recording date of said covenants or deed restrictions shall be on the face of the plat.

Q. Solar Access. The lots and building pads shall be oriented to maintain solar access to properties within and adjacent to the subdivision.

R. Flood, Inundation or Swamp Conditions. A proposed plat may be denied because of flood, inundation, or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat. No plat shall be approved covering any land situated in a flood control zone as provided in Chapter 86.16 RCW without the prior written approval of the State Department of Ecology. (Ord. 954 § 2, 2001)

17.04.090 Plat vacation and alteration.

A plat vacation or alteration shall be processed in accordance with NMC 17.05.120.

A. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner(s), unless the plat or other document creating the dedicated easement provides for an alternative method(s) to vacate or alter the easement.

B. After approval of an alteration, the applicant shall produce a final drawing of the approved alteration which shall be filed with the county auditor to become the lawful plat of the property.

C. If any land within the alteration is part of an assessment district, any outstanding assessment shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.

D. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties. (Ord. 954 § 2, 2001)

17.04.100 Bonds.

A. In lieu of the completion of the actual construction of any required improvements or monumentation prior to the approval of a short or final plat, the building department or council may accept a bond, approved as to form by the city attorney, in an amount and with surety

and conditions satisfactory to it, or other secure method, providing for and securing to the city the actual construction and installation of such improvements within a period specified by the city and expressed in the bonds. In addition, the city may require the posting of a bond securing to the city the successful operation of improvements for up to two years after final approval.

B. All bonded improvements shall be designed and certified by or under the supervision of a registered civil engineer prior to the acceptance of the improvements. (Ord. 954 § 2, 2001)

17.04.110 Monumentation.

A. All front and rear corners shall be set with monuments, except as provided in subsection B of this section.

B. All monuments for the exterior boundaries of the subdivision shall be set and referenced on the plat prior to plat recording. Interior monuments need not be set prior to recording if the developer certifies that the interior monuments shall be set within 90 days of final subdivision construction inspection by the city, and if the developer guarantees and certifies the interior monumentation. (Ord. 954 § 2, 2001)

17.04.120 As-built drawings.

Upon completion of the installation of all infrastructure improvements, two copies of infrastructure as-built plans shall be filed with the city superintendent. The maps shall show information required by the city superintendent, but not limited to location of all utilities, sewer grades, manholes, fire hydrants, storm sewer main size and location, and catch basin location. The city shall withhold final acceptance of the utility installation until the as-built drawings are filed. (Ord. 954 § 2, 2001)

Chapter 17.05

APPLICATIONS

Sections:

- 17.05.010 Purpose.
- 17.05.020 Conditional use permit.
- 17.05.030 Site plan review.
- 17.05.040 Variance.
- 17.05.050 Amendments.
- 17.05.060 Planned development (PD).
- 17.05.070 Lot line adjustments.
- 17.05.080 Short plat.
- 17.05.090 Preliminary subdivision plat.
- 17.05.100 Binding site plan.
- 17.05.110 Final plat.
- 17.05.120 Vacation and alteration.

17.05.010 Purpose.

This chapter describes the land use applications for development subject to review under this title. The intent is to describe the framework of the various types of development applications, the criteria and timeframe for approvals. The procedures for the land use applications are described in the following chapter. (Ord. 954 § 2, 2001)

17.05.020 Conditional use permit.

A. Purpose. It is the purpose of this section to allow for the review of proposed uses which, because of considerations of traffic, noise, lighting, hazards, health and environmental issues, require a case-by-case review to determine if the use is appropriate on the site and in the vicinity. The imposition of conditions on the approval of an application can occur in order to reduce impacts to adjacent properties and uses.

B. Review Process.

1. A temporary use permit shall be subject to a Type I review consistent with NMC 17.06.030(G).

2. A conditional use permit shall be subject to a Type II review consistent with NMC 17.06.030(H).

C. Action of Review Authority.

1. A temporary use permit may be approved, in whole or in part, with or without

conditions, if all of the following findings of fact can be made in an affirmative manner:

a. The temporary use shall occur for a maximum of six months.

b. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

c. The proposed site is adequate in size and shape to accommodate the temporary use without detriment to the use and enjoyment of other properties in the project vicinity.

d. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.

e. Adequate temporary parking to accommodate vehicular traffic to be generated by the use will be available either on-site or at alternate locations acceptable to the review authority.

2. The planning commission may approve a conditional use permit in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

a. The project is consistent with the Newport comprehensive plan and meets the requirements and intent of this title, including the type of land use; the density/intensity of the proposed development; and the protection of critical areas, if applicable.

b. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health and safety.

c. The project adequately mitigates impacts identified through the SEPA review process, if required.

d. The project is beneficial to the public health, safety, and welfare, and is in the public interest.

D. Time Limit on Approval of Conditional Use Permit.

1. Authorization of a temporary use permit shall be valid for the time specified in the approval, but not to exceed six months.

2. Authorization of a conditional use permit shall be valid for one year from the effective date, and shall lapse at that time unless a building permit has been issued and substantial construction has taken place or the use has commenced.

3. The planning commission may extend the conditional use permit one year if it finds that the facts on which the conditional use permit was approved have not changed substantially.

4. A conditional use permit shall be valid for five years and will need to be renewed every five years thereafter. If there have been no outstanding complaints on file, the building department will approve without renewal fees. If there have been complaints the renewal shall come before the planning commission with a renewal fee.

5. A conditional use permit is issued to the applicant and is only valid for that applicant. A conditional use permit is not assignable to another party. If that applicant should move, or pass away, a new application must be made within one month of the change in ownership.

6. If the use authorized under a conditional use permit ceases or is interrupted for six consecutive months or more, then a new conditional use permit will be required. (Ord. 954 § 2, 2001)

17.05.030 Site plan review.

A. Purpose. The purpose of a site plan review is to ensure that new development is not a threat to the public health, safety and welfare of residents of Newport and that it is compatible with existing patterns of development.

B. Review Process.

1. Site plan review shall be subject to a Type II review consistent with NMC 17.06.030(H).

2. A site plan review application shall include the following on plans that are drawn to scale:

a. The location and dimension of the lot(s).

b. Existing topography and natural features.

c. Existing and proposed structures and the proposed uses.

d. Proposed grading, drainage facilities, and location of storage, if applicable.

e. The location of existing and proposed roads, parking facilities, loading areas, curbs, drains, paving, sign and light pole locations, walls, fences, walks, approaches, and plantings within the area.

f. The location of existing and proposed water, storm, and sanitary sewer lines.

g. The nature, location, dimensions of the critical resource area or floodplain area, if any, on or adjacent to the site.

h. All required technical reports prepared by experts with demonstrated qualifications in the area(s) of concern.

i. Drawings of proposed building elevations, noting material types and color.

j. Any additional information deemed necessary by the planning commission.

C. Design Review. The purpose and intent of design review is to ensure that the site plan, landscaping, architecture, orientation, circulation, lighting and site development of large multifamily and nonresidential projects be designed in such a manner that they minimize negative effects to adjoining properties, enhance the overall community image and respect the turn-of-the-century character of the city of Newport. Design review shall be incorporated into all site plan reviews.

D. Design Standards. Design of new development should be consistent with the roof-lines, setbacks, window types and building materials of the turn-of-the-century theme already established. New development is encouraged to employ enhanced pedestrian elements, decorative lighting, seating, planters and to incorporate works of art in public spaces, exterior facades and entrance lobbies.

1. Multifamily Residential Development.

17.05.030

a. Integrate the site plan of the multi-family residential development with the surrounding neighborhood.

b. Design the project in response to specific site conditions, including trees, streams and other significant natural features.

c. Provide for a network of open spaces to accommodate a variety of activities.

d. Use landscaping to integrate the multifamily development with the surrounding community along public rights-of-way.

e. Design street facades with entries, windows, and/or detailing; avoid blank walls facing the street.

f. Provide some form of individualized exterior living spaces, such as porches, patios, or balconies.

g. Use exterior color schemes that fall within a traditional range of basic colors and are respectful of the surrounding neighborhood.

2. Commercial Development.

a. Develop the site plan in response to specific site characteristics, including natural features and location within the community.

b. Use traditional storefront components and proportions on the ground-floor levels.

c. Include windows on the second-floor levels of street-facing facades.

d. Modulate, or break up, blank street-facing walls over 40 feet in width with recesses, columns, bands, or textural treatment.

e. Give special architectural treatment to primary building entrances.

f. Select exterior color schemes that are consistent with the turn-of-the-century rural town.

g. Integrate all commercial signage with the architectural design of the building.

E. Action of Review Authority. The planning commission may approve a site plan review in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The project is consistent with the Newport comprehensive plan and meets the requirements and intent of the Newport devel-

opment regulations, including the type of land use and the intensity/density of the proposed development.

2. The physical location, size, and placement of the development on the site and the location of the proposed uses within the project minimize impacts to any critical resource or floodplain area to the greatest extent possible or are compatible with the character and intended development pattern of the surrounding properties.

3. The project makes adequate provisions for water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that the proposed project would not be detrimental to public health and safety.

4. Public access and circulation are adequate to and on the site. In addition, the access and circulation allow for multiple forms of transportation.

5. Adequate setbacks and buffering have been provided. Any reduction to setbacks or buffer widths is the minimum necessary to allow for reasonable economic use of the lot and does not adversely impact the functional value of the critical resource area or adjoining land uses.

6. The physical location, size, and placement of proposed structures on the site and the location of proposed uses within the project are compatible with and relate harmoniously to the surrounding area.

7. The project adequately mitigates impacts identified through the SEPA review process, if required.

8. The project would not be detrimental to the public interest, health, safety, or general welfare.

F. Time Limit on Approval of Site Plan Review.

1. Authorization of a site plan review shall be valid for one year after the effective date, and shall lapse at that time unless a building permit has been issued and substantial construction has taken place.

2. The planning commission may extend the site plan review one year longer if it finds that the facts on which the site plan

review is approved have not changed substantially. (Ord. 954 § 2, 2001)

17.05.040 Variance.

A. Purpose. The purpose of a variance is to provide relief in cases where the strict application of the development standards in this title would result in undue hardship by virtue of physical peculiarity of a parcel of land. The purpose is to ensure that because of physical characteristics of a property, the property is not deprived privileges commonly enjoyed by other properties in the same zone. A variance shall not allow a use in a zone where otherwise prohibited.

B. Review Process. A variance shall be subject to a Type II review consistent with NMC 17.06.030(H).

C. Action of the Review Authority. The board of adjustment may approve a variance request in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The strict application of this title to a property would result in extreme difficulty, unnecessary hardship, or the inability of an owner to use land for the purposes allowed in the zone in which it is located for reasons of physical peculiarity.

2. The granting of such variance would not be detrimental or injurious to the property or improvements in the general vicinity and district in which the property is located.

3. The granting of the variance would not grant special privileges to a landowner that is in conflict with the purposes of this title.

D. Time Limit on Approval of Variance.

1. Authorization of a variance shall be valid for one year from the effective date, and shall lapse at that time unless a building permit has been issued and substantial construction has taken place.

2. The board of adjustment may extend the variance one year even though substantial construction has not occurred if the board of adjustment finds that the facts on which the variance is approved have not changed substantially. (Ord. 954 § 2, 2001)

17.05.050 Amendments.

A. Purpose. The text and/or map of this title and the provisions of the Newport comprehensive plan may be amended to better implement the intent and vision of the Newport comprehensive plan or protect the health, safety, and welfare of city residents.

B. Initiation of Amendment.

1. An amendment or supplement to this title may be initiated by any owner of affected property (in the case of a zone change), or any citizen of Newport in the case of other amendments.

2. The planning commission or city council may initiate an amendment to this title at any time.

3. Any proposed amendment shall be presented on forms and in the format prescribed by the commission. Attached to any proposed amendment or supplement shall be an explanation and justification for the proposed change.

4. A request for a zone boundary change or zone change shall be accompanied by an accurate map at a scale not larger than one inch equals 200 feet showing the affected property and 300 feet in all directions from the property lines. A complete list of all owners of property on the map shall also be submitted.

C. Review Process. An amendment shall be subject to a Type III review consistent with NMC 17.06.030(I).

D. Action of Review Authority. The planning commission shall not recommend approval and the council shall not approve an amendment to the comprehensive plan or any implementing ordinance or regulation unless it first makes the following findings and conclusions:

1. The proposed amendment is consistent with the intent and goals of the Newport comprehensive plan and meets the requirements and intent of the city of Newport development regulations.

2. The city and other responsible agencies and special districts will be able to supply the development resulting from the amended comprehensive plan or implementing ordinance with adequate roads and streets for access and circulation, water supply, storm

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drainage, sanitary sewage disposal, emergency services, and environmental protection.

3. The amendment adequately mitigates impacts identified through the SEPA review process, if applicable.

4. The amendment is beneficial to the public health, safety, and welfare, and is in the public interest. (Ord. 954 § 2, 2001)

17.05.060 Planned development (PD).

A. Purpose. The purpose of planned development (PD) is to permit more flexibility in site planning and the design of structures in situations where modification of specific provisions of this title will not be contrary to the intent and purpose of the zone and will not be harmful to the neighborhood in which the development occurs. The planned development is intended to achieve land economies in development, maintenance, street systems and utility networks, while allowing for the grouping of buildings for privacy, usable and attractive open spaces, safe circulation, mixed uses when in conformance with the comprehensive plan and the general well being of the residents.

B. Uses. All permitted and conditional uses in the district in which the site is located shall be allowed. If a conditional use permit is required, the application shall be processed simultaneously with the PD application.

C. Development Standards.

1. The PD process shall be used only on five acres or more of land which is of sufficient size to be planned and developed in a manner consistent with the purpose of this section and warrants the use of a PD, unless the planning commission finds that a smaller site is suitable because of its unique character, topography, landscaping features or because it constitutes an isolated problem area.

2. All standards and requirements of this title and all other city ordinances shall apply in a PD unless a modification is specifically granted by the planning commission. Modification may be granted for standards such as lot size, lot dimension, setbacks, height, coverage, parking, and landscaping. The application submitted to the city shall clearly identify all

requested modifications and shall justify the reason for the request.

3. Intensity of development shall be determined by the development standards in the zone in which the property is located.

4. Open space shall constitute at least 15 percent of the land area of the project. The development plan shall provide for the landscaping and/or preservation of the natural features of the land. In order to ensure that the open space will be permanent, deeds or dedication of easements or development rights to the city may be required. Instruments and documents guaranteeing the maintenance of open space shall be recorded with the county assessor's office.

5. If a mixed use development is proposed, the commercial uses shall be designed in scale and used to serve primarily residents of the development.

D. Review Process.

1. A Type II process will be used to review a PD application consistent with NMC 17.06.030(H).

2. If the development will require a subdivision of land, the subdivision application shall be processed concurrently with the preliminary PD application. If the subdivision application is submitted after PD approval, the proposed subdivision shall be processed in accordance with Chapter 17.04 NMC.

E. Action of Review Authority. A PD may be approved in whole or in part, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

1. The project is consistent with the Newport comprehensive plan and meets the requirements and intent of the city of Newport development regulations, including land use type; intensity/density of the proposed development; and the protection of critical resource areas, if applicable.

2. The project is compatible with the existing or known proposed development on properties in the project vicinity.

3. The project makes adequate provisions for access and circulation, water supply, storm drainage, sanitary sewage disposal, emergency services, and environmental protection.

4. The project adequately mitigates impacts identified through the SEPA review process, if any.

5. The project is beneficial to the public health, safety, and welfare, and is in the public interest.

F. Time Limit on Approval of PD. A PD approval shall be valid for two years from the effective date, and shall lapse at that time unless a building permit has been obtained and substantial construction has begun. However, a written request for up to a one-year extension for the PD, submitted prior to the expiration date of the PD may be approved by the planning commission if it finds that the facts on which the PD was approved have not changed substantially. (Ord. 954 § 2, 2001)

17.05.070 Lot line adjustments.

A. Purpose. The purpose of a lot line adjustment is to allow for minor changes in the configuration of property lines.

B. Review Process. Any person, firm, or corporation may make an application for a lot line adjustment. A lot line adjustment application shall include the following and shall be submitted to the building department:

1. A map which clearly depicts the existing and proposed property configuration, including all lot line dimensions and distances to all existing structures.

2. A legal description of the existing and proposed property configuration.

3. A complete application with applicable fees in accordance with the fee schedule adopted by the city council.

4. Written authorization by the owners of all property directly affected by the proposed adjustment.

C. Action by Review Authority.

1. A lot line adjustment shall be subject to a Type I review consistent with NMC 17.06.030(G).

2. The building department may approve a lot line adjustment without a public hearing, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

a. Any lot changed by the lot line adjustment shall comply with all of the appli-

cable development standards, such as lot area, lot dimensions, and setbacks in the district in which the property is located. In addition, off-street parking on any lot affected by the lot line adjustment shall not be reduced below the required number of spaces for the use located on the lot. (Ord. 954 § 2, 2001)

17.05.080 Short plat.

A. Purpose. The purpose of a short plat is to provide a simplified process to divide property into four or fewer lots with a level of review that is proportional to the effect those lots may have on the surrounding area.

B. Application Requirements. Any person, firm, or corporation may make application for a short plat. A short plat application shall include the following and shall be submitted to the building department:

1. Three copies of a map, which clearly indicates the proposed short plat, with north arrow, date, existing topography, buildings and easements and the proposed lot configurations with square footage calculations, water and sewer lines, easements, and dedications.

2. A legal description of the property. In the event that the boundaries are described by metes and bounds, the accuracy of the description shall be attested to and signed by a registered land surveyor.

3. The total property, owned by the applicant, which is contiguous to the parcel being subdivided, shall be accurately indicated on the drawing.

4. All adjacent property and owners shall be clearly shown on the drawing.

5. A completed environmental checklist or documentation, if applicable.

6. A complete application with applicable fees in accordance with the fee resolution adopted by the city council.

7. A current ownership certificate from a recognized title company, acknowledged signatures of the owner(s) authorizing the short plat application.

C. Action by Review Authority.

1. A short plat shall be subject to a Type I review consistent with NMC 17.06.030(G).

2. The building department may approve a short plat, with or without condi-

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tions, if all of the following findings of fact can be made in an affirmative manner:

a. The proposed short plat is in compliance with the Newport comprehensive plan and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed short plat is in compliance with any rules of Washington State Department of Transportation.

b. The physical characteristics of the site, including but not limited to topography, soil conditions, or unique natural features such as susceptibility to flooding, wildlife habitat, or wetlands, have been considered in the project design.

c. The proposed short plat is in compliance with all applicable standards in the unified development ordinance.

d. The appropriate provisions have been made for dedications, easements, and reservations.

e. The public use and interest will be served by the subdivision.

f. The following facilities are adequate to serve the proposed short plat before or concurrent with development of the preliminary plat:

- i. Public and private streets and roads;
- ii. Water;
- iii. Stormwater drainage;
- iv. Sanitary sewage collection and treatment;
- v. Schools and educational services;
- vi. Fire and police service; and
- vii. Pedestrian and bicycle facilities.

g. If applicable, the terms and conditions of the approved subdivision, within which the short plat is located, have been met.

D. Time Limit on Approval of a Short Plat. Approval of a short plat shall be valid for three years, during which time all conditions shall be satisfied and the map shall be recorded at the county department of records. (Ord. 954 § 2, 2001)

17.05.090 Preliminary subdivision plat.

A. Purpose. The purpose of a preliminary subdivision plat is to provide a simplified process to divide property into five or more lots with a level of review that is proportional to the effect those lots may have on the surrounding area.

B. Application Process. Any person, firm, or corporation may make application for a preliminary subdivision plat. A preliminary subdivision plat application shall include the following and shall be submitted to the building department no less than 30 days prior to the planning commission hearing at which it is to be considered:

1. Two copies of the map which clearly indicates the proposed preliminary subdivision plat, with north arrow, date, existing topography, buildings, monuments, markers, boundary lines and easements and the proposed lot configuration with square footage computations, infrastructure, easements, and dedications prepared by a registered land surveyor.

2. A vicinity map.

3. A legal description of all lands included in the proposed preliminary subdivision signed by a licensed land surveyor.

4. Name of the proposed subdivision, name of the subdivider, and name of the person preparing the preliminary plat.

5. Location of adjacent and adjoining platted areas and subdivisions showing relationships and match to all connecting streets, rights-of-way, utilities and easements.

6. All land that the applicant proposes to subdivide and all land immediately adjacent extending 100 feet in all directions from the site perimeter.

7. All adjacent land owned by the applicant on which future additional plat applications may be submitted together with general information as to the location and estimated extent of each additional plat which may be submitted.

8. Completed SEPA checklist or documentation.

9. A complete application form with applicable fees in accordance with the fee resolution adopted by the city council.

10. A current ownership certificate from a recognized title company, acknowledged signatures of the owner(s) authorizing the short plat application.

11. Additional information deemed necessary by the building department including, but not limited to, supplemental technical or environmental studies or reports, topography, easements, applicable codes, covenants and restrictions, proposed roadway layouts and sections and other information to ensure a thorough and complete review of the proposed subdivision.

C. Action by Review Authority.

1. The planning commission may recommend approval of a preliminary subdivision plat, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

a. The proposed preliminary subdivision is in compliance with the Newport comprehensive plan, any requirements of the N.E. Tri-County Health District, and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed preliminary subdivision is in compliance with any rules of Washington State Department of Transportation.

b. The physical characteristics of the site, including but not limited to topography, soil conditions, or unique natural features such as susceptibility to flooding, wildlife habitat, or wetlands, have been considered in the project design.

c. The appropriate provisions have been made for dedications, easements, and reservations.

d. The public use and interest will be served by the subdivision.

e. The following facilities are adequate to serve the proposed short plat or subdivision before or concurrent with development of the preliminary plat:

- i. Public and private streets and roads;
- ii. Water;
- iii. Drainage;
- iv. Sanitary waste collection and treatment;

v. Schools and educational services;

- vi. Fire and police service; and
- vii. Pedestrian and bike facilities.

f. If phasing is proposed:

i. The phasing plan includes all land within the preliminary plat;

ii. Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire plat; and

iii. All road improvement requirements are assured.

2. The city council shall review and affirm or modify the planning commission recommendation at a public hearing held to take testimony on the proposed preliminary subdivision plat.

D. Time Limit on Approval of a Preliminary Subdivision.

1. Approval of a preliminary subdivision plat shall be valid for two years, during which time an application for a final subdivision meeting all the requirements of Chapter 17.04 NMC and of the preliminary subdivision approval shall be made.

2. The applicant may request three one-year extensions prior to the expiration of the preliminary approval. The request for extension may be granted by the city council; provided, that an attempt in good faith has been made to submit the final plat within the preceding period and that there have been no significant changes to the city's policies or development regulations. (Ord. 954 § 2, 2001)

17.05.100 Binding site plan.

A. Purpose. The procedures regulating binding site plans are established in accordance with RCW 58.17.100 for the purpose of:

1. Providing an alternative procedure for the orderly and efficient division of land into lots for the purpose of lease or sale for industrial or commercial uses of the land (upon which no residential structures will be placed) when more than one principal building is to be constructed on one lot of record;

2. Providing the sole and mandatory procedure for the orderly and efficient division

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of land into lots for the purpose of lease for manufactured housing or recreational vehicles; and

3. Promoting the general health, safety, and welfare.

B. Applicability. The binding site plan process and procedures specified in this chapter may only be used for the following:

1. The division of land for the sale or lease of commercially or industrially zoned property (upon which no residential structures will be placed) when more than one principal building is to be constructed on one lot of record. The binding site plan process is an alternative method of subdividing commercial or industrial property.

2. The division of land for the purposes of leasing lots for manufactured housing or recreational vehicles. The binding site plan process is the sole and mandatory method of subdividing land for purpose of leasing lots for manufactured housing or recreational vehicles.

C. Application for Binding Site Plan.

1. Binding site plan applications and maps shall be submitted to the building department on forms prescribed by the city and shall contain the following:

a. All documents, maps, and survey notes shall clearly show the name of the binding site plan, the name(s) of the applicant(s) and the name of the registered land surveyor responsible to the applicant(s).

b. The title shall include the type of binding site plan (commercial, industrial, mobile home park or recreational vehicle park) and read as follows:

(Type of) Binding Site Plan
of
(Name of Plat or Short Plat)
A Record of Survey

c. The lines and names of all existing or platted streets or other public ways, parks, playgrounds, easements, and dedications, including municipal boundaries, township lines, and section lines adjacent to or within the binding site plan.

d. The names, locations and purposes of all existing and proposed easements.

e. The location and dimensions of all existing and proposed water and sewer mains, public or private, and all existing and proposed streets and rights-of-way to be held privately or dedicated to the city.

f. Parking areas, loading areas, and landscaping areas.

g. The location of all access points which access a public street or right-of-way.

h. Block and lot locations including dimensions and number or letter designations.

i. The lengths and bearings of all straight lines, curve radii, arcs, and semi-tangents of all curves.

j. All dimensions along the lines of each lot with the true bearings and also any other data necessary for the location of any lot in the field.

k. Suitable primary control points, approved by the building department or descriptions and ties to such control points, to which all dimensions, angles, bearings, and similar data given on the plan shall be referred.

l. The location of all permanent monuments, property corners, and lot corners.

m. The names of all immediate adjacent subdivisions.

n. The date, true north point, scale, datum plane, and date of survey.

o. The boundary of the binding site plan, the courses and distances marked thereon, as determined by a field survey made by a registered and qualified land surveyor of the state, and with an allowable error not to exceed one foot in 5,000 feet.

p. The elevations of all permanent monuments based on datum plane approved by the building department.

q. Certification by a registered land surveyor of accuracy of the binding site plan map and survey.

r. Location and dimensions of all irrigation water rights-of-way.

s. All linear dimensions shall be given in feet and decimals of a foot to the nearest hundredth.

t. The scale of the binding site plan shall be not more than 100 feet to the inch; except, that the building department, subject to a request prior to binding site plan submittal,

may approve an alternative binding site plan map scale not to exceed 200 feet to the inch.

u. If the binding site plan is a redivision or amendment to or alteration of an existing binding site plan, the parcels or lots, of the preceding binding site plan shall be shown by dotted lines in their proper positions in relation to the new arrangement of the binding site plan, the binding site plan being so clearly shown in solid lines as to avoid ambiguity.

v. The applicant's land surveyor shall set all required monuments and shall stake all lot corners as shown on the binding site plan before the binding site plan is submitted for approval.

w. A vicinity map at a scale of not more than 400 feet to the inch; except, that the building department, subject to a request prior to plat submittal, may approve an alternative vicinity map scale exceeding 400 feet to the inch. The vicinity map shall show all adjacent parcels. It shall show how the streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring subdivisions or unplatted property to produce an advantageous development of the entire neighborhood.

x. The street address for the binding site plan will be assigned by the building department.

y. United States Bureau of Reclamation horizontal and vertical data including bench marks.

2. Any deed restrictions or covenants existing or proposed shall be described and drawn on the binding site plan map and/or in the other documents submitted with the binding site plan application and map.

3. The applicant shall submit all parcel and boundary closures to the building department at the time the applicant submits the binding site plan map and application.

4. The binding site plan application shall be accompanied by the following:

a. A plat certificate from a title company licensed to do business in the state of Washington and dated within 30 days of the date of submitting the binding site plan application to the building department confirming that the title of the land as described and shown

on the binding site plan is in the name of the owners signing the binding site plan and the developer agreement.

b. A certificate from the Pend Oreille County treasurer indicating that all taxes and assessments on the land and improvements included in the binding site plan have been paid according to the provisions of RCW 58.08.030 and RCW 58.10.040 as now enacted or hereafter amended.

c. All easements and covenants proposed to run with the land.

d. A completed SEPA environmental checklist as required by law.

e. A nonrefundable filing fee as provided in the city's fee schedule.

5. The binding site plan application shall also be accompanied by 12 copies of the binding site plan and map.

D. Binding Site Plan Conditions and Requirements.

1. General Requirements – All Binding Site Plans.

a. Binding site plans shall be filed as a record of survey in the Pend Oreille County auditor's office.

b. The binding site plan shall connect to municipal utilities (sewer and water) in the existing dedicated streets that adjoin the binding site plan, drainage ways, and other public ways, or municipal improvements shall be provided in conformance with the city of Newport standards in effect at the time of the binding site plan approval.

c. The binding site plan shall front on an existing dedicated street. There shall be adequate access to a public way from all lots within the binding site plan. Existing dedicated streets shall be improved to the city of Newport's standards. Private streets shall have direct access onto a dedicated street.

d. The binding site plan shall comply with all applicable zoning and health regulations, including but not limited to those regulations set forth in this title.

e. The binding site plan shall be consistent with the city of Newport's comprehensive plan.

f. The binding site plan shall conform to the requirements and standards set forth in

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Chapter 17.04 NMC. The requirements and standards set forth in said chapter shall be applicable to each and every binding site plan. A binding site plan shall be considered a subdivision for purposes of that chapter.

g. The binding site plan shall provide for irrigation water rights-of-way pursuant to RCW 58.17.310 as now enacted or hereafter amended.

h. Environmental information shall be prepared and submitted in accordance with the guidelines established under the State Environmental Policy Act of 1971, as amended. Said information is a part of and must accompany the binding site plan application.

i. A binding site plan shall be processed simultaneously with the application for platting, rezones, variances, planned unit developments, site plan approvals, and similar legislative quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing.

j. The binding site plan shall contain provisions making all development conform to the binding site plan.

k. Requests for alteration of an approved binding site plan shall be submitted to the building department. Minor revisions to the binding site plan may be approved by the building department. Minor revisions include a lot line adjustment. The amended binding site plan shall be processed subject to all the procedures and requirements of this chapter.

2. General Requirements – Commercial or Industrial Binding Site Plans.

a. A commercial or industrial binding site plan authorizes a sale or transfer of a lot within the binding site plan. The binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot within the binding site plan. The sale or transfer of such lot in violation of the binding site plan, or without obtaining a binding site plan approval, shall be considered a violation of Chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in Chapter 58.17 RCW. The sale or other transfer of ownership of a lot

of a commercial or industrial binding site plan shall be filed as a record of survey in the Pend Oreille County auditor's office.

b. A commercial or industrial binding site plan shall make adequate provisions for public streets, roads, rights-of-way, other public ways, curbs, gutters, sidewalks, street lighting circuits, alleys, transit stops, irrigation rights-of-way, the extension of municipal utilities, including water and sewer services, and any other municipal improvements deemed necessary in conformance with the city standards in effect at the time of the approval of the binding site plan application.

c. All lots within a commercial or industrial binding site plan shall have direct access to a public street. Street lighting shall be provided.

3. General Requirements – Mobile Home and Recreational Vehicle Binding Site Plans.

a. Mobile home and recreational vehicle binding site plans shall authorize the leasing of lots therein but shall not authorize the sale or transfer of ownership of a lot within the binding site plan.

b. All improvements (i.e., all water services, fire lines, sewers, private access streets) within the mobile home or recreational vehicle park binding site plan boundaries shall be privately held and maintained by the property owner(s)/applicant(s). The binding site plan shall make adequate provisions for internal private access streets, curbs, gutters, sidewalks, street lighting circuits, and alleys. The binding site plan shall make provisions for adequate easements within the binding site plan for major municipal utility lines.

4. Specific Conditions and Requirements – All Binding Site Plans.

a. Preapplication Conference. Prior to submission of a binding site plan application and map, the applicant or the applicant's representative shall schedule a preapplication conference with the building department.

i. The building department will coordinate the conference with representatives of other affected city of Newport departments.

ii. The applicant shall present a conceptual idea of the binding site plan.

iii. The building department and representatives of affected city of Newport departments will respond informally and address potential items of concern to aid the applicant in preparing the binding site plan.

b. The binding site plan shall contain the legal description of the land within the binding site plan and the following declaration, acknowledgment, and endorsement statements shall appear in the following sequence in black permanent ink either by hand or mechanical device:

Legal Description:

Declaration:

The owner in fee simple of the land herein described is _____. The owner does hereby establish a Binding Site Plan for the purpose of lease or sale of portions thereof, pursuant to RCW Chapter 58.17 and Title 17 of the Newport Development Regulations and that the undersigned declares that development of the property herein described shall conform to all inscriptions contained hereon.

Signature Date
(Owner)

Signature Date
(Building Department)

Acknowledgment

State of Washington
County of Pend Oreille

I certify that I know or have satisfactory evidence that _____ signed this instrument and acknowl-

edged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated _____

Signature of Notary Public
My appointment expires _____

Land Surveyor's Declaration:

I hereby certify that this Binding Site Plan is a true and correct representation of the lands actually surveyed.

I hereby declare that the Binding Site Plan _____, the heretofore described tract of land, is based upon an actual survey and that all the distances and courses shown thereon are correct to the best of my knowledge, information, and belief; and that I have fully complied with the provisions of the statutes and platting regulations.

Professional Land Surveyor
Certificate No. _____

Approvals:

Examined and approved by the Newport Planning Commission on _____, 20__.

Clerk/Treasurer

Assessor's Certificate: Examined and approved by the Pend Oreille County Assessor.

Pend Oreille County Assessor
_____, 20__.
Date

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Treasurer's Certificate: This is to certify that all ___taxes and assessment which are now due and payable according to the records of Pend Oreille County have been fully paid.

Pend Oreille County Treasurer

_____, 20____.
Date

Auditor's Certificate

Filed for the record at the request of the City of Newport this day ____ of _____, 20____, in Volume ___ of the Book of Surveys, on page _____, records of Pend Oreille County, Washington.

Pend Oreille County Auditor

by Deputy Auditor

E. Review by Planning Commission.

1. The planning commission may approve a binding site plan as a Type II process, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

a. The proposed binding site plan is in compliance with the Newport comprehensive plan and any other such plans developed pursuant to law. In addition, if the property, in part or total, abuts a state highway, the proposed binding site plan is in compliance with any rules of the Washington State Department of Transportation.

b. The physical characteristics of the site, including but not limited to topography, soil conditions or unique natural features, such as susceptibility to flooding, wildlife habitat or wetlands, have been considered in the project design.

c. The proposed binding site plan is in compliance with all applicable standards in the Newport zoning ordinance and in this title.

d. The appropriate provisions have been made for dedications, easements and reservations.

e. The public use and interest will be served by the binding site plan.

f. The following facilities are adequate to serve the proposed binding site plan or will be improved concurrent with development of the binding site plan:

i. Public and private streets or roads;

ii. Water;

iii. Drainage;

iv. Sanitary waste collection and treatment;

v. Schools and educational services;

vi. Fire and police service; and

vii. Pedestrian and bike facilities.

g. If phasing is proposed:

i. The phasing plan includes all land within the binding site plan;

ii. Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire plat; and

iii. All road improvement requirements are assured.

2. Planning commission approval of the binding site plan shall be valid for a period of one year from the date of approval.

F. Final Filing and Recording Fees – Developer Agreement.

1. Upon approval of the binding site plan by the planning commission, the applicant shall pay the appropriate fees to record the approved binding site plan with the Pend Oreille County auditor.

2. Upon approval of the binding site plan by the planning commission, the developer shall sign and submit to the city a developer agreement acceptable to the clerk/treasurer which:

a. Dedicates to the city all streets required to be dedicated to the city as a condition of binding site plan approval;

b. Grants to the city all easements required to be granted as a condition of binding site plan approval;

c. Describes and shows the precise location of all granted easements and dedicated streets;

d. Imposes an obligation on the applicant to install and construct, or post a bond or cash equivalent for, all utility and street improvements required as a condition of the binding site plan; and

e. Sets forth any other conditions of binding site plan approval. The signature of the applicant shall be notarized. The approved binding site plan shall not be signed by the clerk/treasurer or filed for recording with the Pend Oreille County auditor's office until such signed and acceptable developer agreement is received by the city.

G. Recording Requirements.

1. Upon receipt of all required final fees and an acceptable and signed developer agreement, the approved binding site plan and the developer agreement shall be signed by the clerk/treasurer. The clerk/treasurer's signature on the developer agreement shall be notarized.

2. The building department shall transmit the original developer agreement and three copies of the binding site plan to the Pend Oreille County auditor for final filing and recording. One reproducible conformed copy of the binding site plan shall be retained by the building department. One conformed copy of the binding site plan shall be returned to the applicant. The applicant shall make 12 paper copies of the conformed copy and submit them to the building department.

3. Any record of survey filed as a binding site plan which does not bear the signature of the clerk/treasurer is not a valid binding site plan and shall not confer any rights or privileges upon the property or its owners.

4. Once the binding site plan and developer agreement are filed for recording with the Pend Oreille County auditor's office, the binding site plan and developer agreement shall be binding upon and be enforceable against the applicant, the applicant's heirs and personal representatives, and the applicant's successors and assigns, including any person or entity which obtains an ownership interest in all or any portion of the land within the binding site plan.

H. Certificate of Segregation.

1. Prior to the issuance of any building permit for construction within an approved binding site plan, that portion of the binding site plan for which the building permit is requested must be legally described and receive a certificate of segregation from the city. Said certificate shall insure the segregation of construction complements the approved binding site plan.

2. Approval of the binding site plan shall constitute approval for the binding site plan applicant to develop construction plans and specifications for all on-site street and utility improvements.

3. No building permits or certificates of occupancy shall be issued by the city with respect to any lots or land within an approved binding site plan until all required street and utility improvements have been completed and approved and a one-year maintenance bond posted.

I. Improvements.

1. Following the approval of a binding site plan, the applicant shall submit to the building department three complete sets of construction plans and specifications prepared by a professional engineer licensed by the state of Washington showing all street and utility improvements as required by the planning commission in approving the binding site plan. The construction plans and specifications shall be accompanied by a plan check fee as per the rate schedule established by the city. All construction plans and specifications shall be in conformance with city standards. Sheet size shall be 24 inches by 36 inches and shall have a border of one inch on the left margin and one-half inch on the remaining three margins. The scale shall be five feet vertically and 40 feet horizontally.

2. After the city approves the construction plans and specifications, the applicant shall complete and install all street and utility improvements required by the planning commission in granting approval of the binding site plan within one year of the date upon which the city approves the construction plans and specifications. A one-year performance or subdivision bond or other security in a form

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satisfactory to the city attorney shall be required in the amount of 150 percent of the construction costs as determined by the city. After the street and utility improvements are constructed and approved, a one-year maintenance bond shall be required in the amount of 100 percent of the construction costs as determined by the city.

3. In the event that all street and utility improvements are not completed within one year of the date upon which the city approves the construction plans and specifications, the bond or security may be forfeited and the city may undertake the installation and completion of all required street and utility improvements. In the alternative, the clerk/treasurer may grant one extension of the performance or subdivision bond or security for a period not to exceed one year; provided, that the request for an extension is filed with the building department at least 60 days prior to the expiration of the bond or security. If the request for a time extension is granted, a new performance or subdivision bond or security shall be submitted in an amount sufficient to cover 150 percent of the cost of completing street and utility improvements. The bond will be updated with new estimates of costs on all uncompleted improvements and all increased costs shall be passed onto the bond. If the surety does not accept these increased costs, then the city will foreclose on the bond and the binding site plan will be held in abeyance. Departments issuing recommendations for new performance or subdivision bonds or other approved security shall not modify the terms and requirements of the bond or security other than to pass on all increased costs estimates as determined by the city to the bond or security to cover the costs of completing utility and street improvements without the written consent of the applicant. After the street and utility improvements are constructed and approved, a one-year maintenance bond shall be required in the amount of 100 percent of the construction costs as determined by the city.

4. The city or a licensed professional engineer or engineering firm hired by the city shall be responsible for the inspection of all street and utility improvements to insure con-

formance with the approved plans and specifications.

J. Sale or Lease of Lots. No lots within a binding site plan may be sold or leased until the approved binding site plan and the signed developer agreement are recorded by the Pend Oreille County auditor's office.

K. Vested Rights. A binding site plan shall be governed by the terms of approval of the binding site plan. Lots in a binding site plan filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing.

L. Appeals. Any decision approving, approving with conditions or disapproving any binding site plan may be appealed to the Newport city council in accordance with the provisions of the Newport development regulations. (Ord. 954 § 2, 2001)

17.05.110 Final plat.

A. Purpose. The purpose of a final plat is to ensure that all conditions of the preliminary short plat or preliminary subdivision plat approvals have been satisfied prior to the recordation of the map.

B. Review Process. Every final plat document shall include an accurate map of the divided land, based upon a legal survey, including the following information:

1. All section, including quarter section and quarter quarter section, township, municipal and county lines lying within or adjacent to the land.

2. The location of all monuments, found or set, or other evidence used as ties to establish the subdivision boundaries. The location of all monuments found and established within the subdivision.

3. The boundary of the divided land with complete bearings and lineal dimensions.

4. The length of each block and lot line, together with bearings and other data necessary for the location of any block or lot line in the field.

5. The location, width and centerline of all streets and alleys within and adjoining the subdivision.

6. The location and width, shown with broken lines, and description of all easements, including a statement of their designated use.

7. Lot areas in square feet and lot and block numbers where applicable.

8. Location of all adjoining and adjacent existing plats and unplatted property, indicated by broken lines, together with recording data.

C. Action by Review Authority. The city council shall approve the final subdivision plat if all of the following findings of fact can be made in an affirmative manner:

1. The final plat meets the requirements of Chapter 58.17 RCW, other applicable state laws, and all requirements for plat approval in this title.

2. The final plat has met all the conditions and conforms to all terms of the preliminary approval.

3. The Pend Oreille County treasurer certifies that all taxes and delinquent assessments for which the property may be liable have been duly paid, satisfied or discharged.

D. Approval and Recordation.

1. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3).

2. The final plat shall be filed with the building department upon receipt of the filing fee from the applicant and shall be recorded by the county auditor. (Ord. 954 § 2, 2001)

17.05.120 Vacation and alteration.

A. Purpose. The purpose of a vacation and alteration procedure is to allow for the deletion or alteration of a dedicated right-of-way or easement.

B. Action by Review Authority.

1. A vacation and alteration shall be subject to a Type III review consistent with NMC 17.06.030(I).

2. The city council at a public hearing may approve a vacation and alteration request, with or without conditions, if all of the following findings of fact can be made in an affirmative manner:

a. The alteration to the previously approved subdivision is in compliance with

the Newport comprehensive plan and the development regulations.

b. The public use will be served by the alteration to the previously approved subdivision.

C. Approval and Recordation. After approval of an alteration request, a revised plat shall be filed with the county department of records upon receipt of the county's filing fee from the applicant. (Ord. 954 § 2, 2001)

Chapter 17.06

ADMINISTRATION

Sections:

- 17.06.010 Purpose.
- 17.06.020 General provisions.
- 17.06.030 Development review process.
- 17.06.040 Public notices.
- 17.06.050 Appeals.
- 17.06.060 Enforcement.

17.06.010 Purpose.

This chapter describes the process for review of land use development proposals and ordinance or map amendments subject to review under this title. The intent is to establish procedures for the review of permit applications that will ensure that the requirements of this title are met, and the goals and policies of the Newport comprehensive plan are achieved. The process integrates the State Environmental Policy Act (SEPA) review as well as provides for consolidated development review wherever possible, in order to avoid duplication and delay. (Ord. 954 § 2, 2001)

17.06.020 General provisions.

A. Unless otherwise required, where the city must review more than one application for a given development, all applications required for the development may be submitted for review at one time. Where more than one application is submitted for a given development, and those applications are subject to different levels of review, then all the applications are subject to the highest level of review that applies.

B. If this code does not expressly provide for review using one of the types of procedures, and another specific procedure is not required by law, the building department shall classify the application as one of the three types of procedures. The building department shall consider the following guidelines when classifying the procedure type:

1. Type I process (administrative) involves an application that is subject to clear, objective and non-discretionary standard or

standards that require the exercise of professional judgment about technical issues.

2. Type II process (quasi-judicial) involves an application that is subject to objective and subjective standards that require the exercise of substantial discretion and about which there may be a broad public interest.

3. Type III process (legislative) process involves the creation, implementation or amendment of policy or law by ordinance. The subject of a Type III process applies to a relatively large geographic area.

C. If an appeal is received on a SEPA determination, the appeal and the subject application shall be considered by the city council at the same hearing. (Ord. 954 § 2, 2001)

17.06.030 Development review process.

A. General Provisions. The following are the roles and responsibilities for each of the three review processes:

1. The building department shall review and act on administrative actions and Type I (administrative) applications.

2. The planning commission shall review and make recommendations on Type II (quasi-judicial) and review and make recommendations on Type III (legislative) applications. The planning commission shall determine whether a public hearing on a Type II (quasi-judicial) will be held before the planning commission or before the city council. Only one public hearing shall be held on a Type II (quasi-judicial) application. In the case of variances, the planning commission role is taken by the board of adjustment.

3. The city council may act on Type II (quasi-judicial) after review and recommendation from the planning commission. The city council shall act on Type III (legislative) applications after review and recommendation by the planning commission. In addition, the city council shall review and act on appeals of Type I (administrative).

4. The building department shall review any pre-application, containing drawings to scale or blueprints of the projected changes for any renovation or remodel of any building located in the CBD (C-1) zone, to determine if the proposed changes conform to the historical

identity of downtown Newport as defined in the Newport comprehensive plan. If the building department determines the proposed change is in conformance, the design will be presented to the planning and zoning commission for final approval.

B. Preapplication. Applicants for all development permits are encouraged to contact the building department prior to submitting an application to discuss the nature of the proposed development, applicable development standards, design alternatives, required per-

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mits and the review process. The building department will arrange to have representatives of other agencies and departments with review authority attend the preapplication conference.

C. Application and Fee. Any person, firm, or corporation may make an application. A completed application with applicable submittal materials and fees as established by resolution of the city council shall be submitted to the building department.

D. Review for Completeness.

1. Within 28 days of receiving a date-stamped application, the city shall review the application for completeness, and provide the applicant with a written determination that the application is complete or incomplete. If the application is found to be incomplete, the city shall identify the specific information or requirements that must be provided to constitute a complete application.

2. An application is complete if it includes the following:

a. A completed original application form signed by the owner(s) of the property subject to the application or by a representative authorized to do so by written instrument executed by the owner(s) and filed with the application.

b. Information necessary to demonstrate compliance with the standards specified in the applicable section(s) of this title.

c. A completed SEPA checklist, including all back-up materials, or, in the case that the project is exempt, a statement explaining why the project should be considered exempt under WAC 197-11-800.

d. Suggested findings of fact supporting the proposed project and relating to each required finding in this title.

e. Payment in full of all applicable fee(s) adopted by the city council.

E. Technical Review. The building department shall review the development application for compliance with the provisions of this title and the Newport comprehensive plan, and other applicable city regulations, and the State Environmental Policy Act (SEPA). The building department may seek the input and advice of other city departments and other state and

federal agencies in performing this review. The building department shall make a threshold determination pursuant to SEPA. In addition, the building department may require such additional information as reasonably necessary to fully and properly evaluate the proposal.

F. Notice of Application. Within 14 days after making a determination that an application is technically complete, the building department shall publish a notice of application for all Type II and Type III projects and those Type I projects that are determined to require review under SEPA, in accordance with the requirements of NMC 17.06.040.

G. Type I, Administrative Review Process.

1. The building department may approve, approve with conditions, or deny Type I applications, subject to the notice and appeal requirements of this section.

2. Within 14 days, a notice of decision must be published in accordance with NMC 17.06.040(D). Preliminary approvals under this section shall become final if no appeal is submitted, within 14 days of publication of the notice of decision.

H. Type II, Quasi-Judicial Review Process.

1. A Type II, quasi-judicial review shall require an open record public hearing before the planning commission, the city council or board of adjustment as determined by the planning commission.

2. The building department shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the development's consistency with the requirements of this title, the Newport comprehensive plan, and other applicable city regulations. The recommendation shall include findings, conclusions and proposed recommendations for the disposition of the development application.

3. The building department shall schedule a public hearing before the planning commission or the city council as soon as possible after a determination is made that a completed application requires a Type II review. If possible, the date, time and location of the public

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hearing shall be included in the notice of application. If the public hearing date is not established at the time of the notice of application, a separate notice, in accordance with NMC 17.06.040, shall be provided.

4. At the time and in the place appointed, the planning commission, the city council or board of adjustment shall conduct a public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the requirements of this title and other applicable plans and regulations.

5. The planning commission, the city council, or board of adjustment may grant approval, approval with conditions, or may deny the project based on the testimony received and the findings made. Approvals under this section shall become final 10 days after publication of the notice of decision, unless an appeal is filed with the Pend Oreille superior court.

I. Type III, Legislative Review Process.

1. A Type III, legislative review shall require a review and recommendation from the planning commission and a review including a public hearing before the city council.

2. The building department shall prepare a report and recommendation on the proposed amendment or action summarizing the comments and recommendations of city departments, affected agencies and special districts, and evaluating the amendment's consistency with the requirements of this title, the Newport comprehensive plan, other applicable city regulations, and applicable state and federal laws and regulations. The staff report shall include findings, conclusions and proposed recommendations for the disposition of the development application.

3. The building department shall schedule a public hearing before the city council as soon as possible after a determination is made that a completed application requires legislative review. Notice of the time and place of the hearing shall be published in the notice of application, in accordance with NMC 17.06.040(B). A separate notice of public hearing shall be provided if the hearing date is

not known at the time of the notice of application.

4. At the time and in the place appointed, the city council shall conduct a public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the requirements of this title and other applicable laws, plans and regulations.

5. Whenever a proposed amendment to the unified development ordinance or other ordinance implementing the comprehensive plan, or an amendment to the comprehensive plan is considered by the planning commission, the commission shall prepare findings of fact supporting its action and transmit such findings to the city council with its recommendation for action.

6. A recommendation to the council shall be by the affirmative vote of not less than a majority of the total members of the commission. The approval shall be by a recorded vote, which shall incorporate the findings of fact and reasoning, and shall refer specifically to what is being amended.

7. Upon receipt of a resolution by the planning commission with a recommendation of an ordinance amendment to an existing ordinance, or an amendment to the comprehensive plan, the council shall conduct a public hearing for the purpose of taking testimony and hearing evidence on the proposal. The council's decision shall be based on the record established at the hearing and the facts described in the planning commission recommendation.

a. Whenever the council makes a determination to modify or reject the planning commission findings of fact or recommendations, it shall adopt its own findings of fact and a statement setting forth the factors considered and its own analysis of findings considered by it to be controlling.

b. In the event of initiation of an amendment by the council, it shall refer the proposed amendment to the planning commission for consideration and recommendation prior to taking action. Only one public hearing

(before the city council) shall be held prior to council action.

c. The council, before adoption, modification, or rejection of an amendment to this title, a zone change or a plan amendment, shall make findings of fact representing the official determination of the council and specifying the basis for the decision.

8. Action by the city council regarding the initial adoption of any official land use controls or ordinances, any subsequent amendment to official controls or any subsequent amendment to the comprehensive plan, shall be final and conclusive, unless within 21 days from the date of publication of the notice of decision, the original applicant or a party adversely affected by the decision makes proper application to a court of competent jurisdiction for a writ of certiorari, a writ of prohibition, a writ of mandamus, or other action as may be provided and allowed by law to review the action of the city council.

J. Final Decision.

1. The review authority shall approve or deny a development proposal within the following timeframes from the date of the letter of completeness:

a. One hundred twenty days for development applications, such as conditional use permit, variances, site plan review.

b. One hundred twenty days for preliminary subdivision plats.

c. Thirty days for short plats.

d. For development applications not identified in this chapter or subsection (J)(2) of this section, the 120-day time frame shall apply.

2. Exceptions to this include:

a. Amendments to the comprehensive plan or development code.

b. Any time required correcting plans, performing studies or providing additional information; provided, that within 14 days of receiving the requested additional information, the building department shall determine whether the information is adequate to resume the project review.

c. Substantial project revisions made or requested by an applicant, in which case the 120 days will be calculated from the time that

the city determines the revised application to be complete.

d. All time required for the preparation and review of an environmental impact statement, if required under SEPA.

e. Projects involving the siting of an essential public facility.

f. An extension of time mutually agreed upon by the city and the applicant.

g. Any remand to the hearing body.

h. All time required for an appeal of a determination of significance.

K. Notice of Decision.

1. After a decision is made by the review authority, the building department shall prepare a notice of decision that contains the following:

a. A description of the project or requested action and the location of the property.

b. A statement of any SEPA threshold determination.

c. A statement of the action taken by the review authority.

d. A statement that the action is final unless an appeal is submitted within the appeal period set by this title. The final appeal date shall be provided.

e. A statement describing the procedure for an appeal.

f. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

2. The notice of decision shall be distributed as follows:

a. Publication of the notice in the official city newspaper of general circulation.

b. Mailing of the notice to the applicant or applicant's representative and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted comments on the application.

c. Mailing of the notice to the county assessor's office.

L. Re-Initiation of Hearings. No person, except the planning commission or city council, shall reapply or reinstate a petition for a zone change or conditional use for which a public hearing was held, and said request was

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denied or withdrawn, within a period of time less than one year after action by the city council. (Ord. 969 § 2, 2003; Ord. 954 § 2, 2001)

17.06.040 Public notices.

A. Purpose. The intent of this section is to provide procedures for the content and distribution of public notices to ensure that interested persons are provided opportunities to review and comment on projects.

B. Notice of Application.

1. Within 14 days of issuing a letter of completeness under NMC 17.06.030(D), the building department shall issue a notice of application. The notice shall include but not be limited to the following:

- a. The name of the applicant;
- b. Date of application;
- c. The date of the letter of completeness;
- d. The location of the project (address, assessor's parcel number(s), or legal description);
- e. A description of the proposed project;
- f. The requested approvals, actions, and/or required studies;
- g. A public comment period not less than 14 nor more than 30 days;
- h. Identification of existing environmental documents;
 - i. A city contact and phone number;
 - j. The date, time, and place of a public hearing if one has been scheduled;
 - k. A statement that the decision on the application will be made within 120 days of the date of the application;
 - l. A statement of the preliminary determination, if one has been made at the time of notice, of the development regulations that will be used for project mitigation and to determine consistency with the Newport development regulations;
 - m. SEPA determination, if known at the time of the notice.

2. The notice of application shall be distributed as follows:

- a. Posted in at least three public buildings, at least 14 days, but not more than 30 days, prior to the hearing;

- b. Publication at least 10 days before the date of a public meeting in the newspaper of general circulation.

- c. If the proposed action is site specific, notice shall be mailed to all property owners within 300 feet of the site, excluding right-of-way. The property owners shall be as shown on the most recent county assessor's records. The applicant shall provide addressed, pre-stamped envelopes.

3. Notice of an application for Type I procedure shall be made as follows:

- a. The building department shall notify the adjacent property owners of intent to grant approval. Notification shall be made by certified mail (return receipt requested).

- b. Final approval will be granted unless a request for a public hearing is filed with the city clerk within 14 days of the date of the notice.

4. Notice of an application for Type II procedure shall be made as follows:

- a. Publication at least 10 days before the date of a public meeting in the official city newspaper of general circulation;

- b. Mail to all property owners within 300 feet, not including street rights-of-way, of the boundaries of the property, which is subject of the hearing. The notice shall be post-marked at least 14 days, but no more than 30 days, prior to the date of the public hearing. Addressed, pre-stamped envelopes shall be provided by the applicant. The property owners shall be as shown on the most recent county assessor's records;

- c. Post notice of the requested action on all street frontages of the property (properties) affected using notices provided by the building department.

5. Notice of an application for Type III procedure shall be made as follows:

- a. Publication at least 10 days before the date of a public meeting in the official city newspaper of general circulation;

- b. If the proposed action is for a specific site, notice shall be mailed to all property owners within 300 feet, not including street rights-of-way, of the boundaries of the property which is subject of the hearing. The notice shall be postmarked at least 14 days, but no

more than 30 days, prior to the date of the public hearing. Addressed, pre-stamped envelopes shall be provided by the applicant. The property owners shall be as shown on the most recent county assessor's records.

c. If the proposed action is for a specific site, notice of the requested action shall be posted by the applicant on all street frontages of the property (properties) affected using notices provided by the building department.

d. If the application would apply to a large number of properties (for example, an entire zone district) publication of a map of areas affected may substitute for individual notice.

C. Notice of Public Hearing.

1. If the public hearing date is not provided in the notice of application, a separate notice of a public hearing for all development applications shall be given as follows:

a. Publication at least 10 days before the date of a public meeting, hearing, or pending action in a newspaper of general circulation in the city; and

b. Mailing at least 10 days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the county assessor and to all street addresses of properties within 300 feet, not including street rights-of-way, of the boundaries of the property which is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant; and

c. Posting at least 10 days before the meeting, hearing, or pending action in three public places where ordinances are posted and at least one notice on the subject property.

2. The public notice shall include a general description of the proposed project; and action to be taken; a nonlegal description of the property or a vicinity map or sketch; the time, date and place of the public hearing and the place where further information may be obtained.

3. If for any reason, a meeting or hearing on a pending action cannot be completed on the date set in the public notice, the meeting or hearing may be continued to a date certain and no further notice under this section is required.

D. Notice of Decision.

1. After a decision is made by the review authority, the building department shall prepare a notice of decision that contains the following:

a. A description of the project or requested action and the location of the property.

b. A statement of any SEPA threshold determination.

c. A statement of the action taken by the review authority.

d. A statement that the action is final unless an appeal is submitted within the appeal period set by this title. The final appeal date shall be provided.

e. A statement describing the procedure for an appeal.

f. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

2. The notice of decision shall be distributed as follows:

a. Publication of the notice in the official city newspaper of general circulation.

b. Mailing of the notice to the applicant or applicant's representative and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted comments on the application.

c. Mailing of the notice to the county assessor's office. (Ord. 954 § 2, 2001)

17.06.050 Appeals.

A. General Provisions. Any decision on an application for permits described in these regulations may be appealed, by applicants or parties of record, as follows:

1. Interpretations, SEPA determinations, and Type I decisions may be appealed to the city council within 14 calendar days of the decision.

2. Type II and Type III decisions may be appealed to Pend Oreille County superior court within 10 or 21 days, respectively, of the publication of the notice of decision as described in subsection C of this section.

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B. Filing of an Appeal.

1. The notice of appeal shall contain a concise statement identifying:

- a. The decision being appealed;
- b. The name and address of the appellant;
- c. The specific reasons for the appeal (the appellant shall bear the burden of proving why the decision is inappropriate); and
- d. The desired outcome or changes to the decision.

2. The appeal fee shall be paid by the appellant in accordance with the fee resolution adopted by the city council.

C. Judicial Appeal.

1. Appeals from the final decision of the planning commission or city council for which other appeals specifically authorized have been timely exhausted shall be made to Pend Oreille County superior court within 21 days of the date of publication of the notice of decision, unless another time period is established by state law or local ordinance. No person having actual prior notice of the proceedings of the planning commission or the city council hearings shall have standing to challenge the final action unless such person was a party of record at the final hearing.

2. Notice of the appeal and any other pleadings required to be filed with the court shall be served to the building department.

3. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant. (Ord. 954 § 2, 2001)

17.06.060 Enforcement.

A. General Provisions.

1. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this title shall be subject to a civil fine of not more than \$500.00 for each violation. Each day that a violation is per-

mitted to exist shall constitute a separate offense.

2. The above does not preclude the city attorney from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, addition, alteration, conversion, removal, demolition, maintenance or use or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about any premises.

B. Revocation or Modification of Permits and Approvals.

1. Upon receiving a planning commission recommendation for revocation or modification of a permit or approval, the city council shall review the matter at a public hearing. Upon a finding that the activity does not comply with the conditions of approval or the provisions of this title, or creates a nuisance or hazard, the council may delete, modify or impose such conditions on the permit or approval it deems sufficient to remedy the deficiencies. If the council finds no reasonable conditions, which would remedy the deficiencies, the permit or approval shall be revoked and the activity allowed by the permit or approval shall cease.

2. If a permit or approval is revoked for fraud or deception, no similar application for the same site or from the same applicant shall be accepted for a period of three years from the date of final action and appeal, if any. If a permit or approval is revoked for any other reason, another application may be submitted subject to all of the requirements of this title after one year has elapsed. (Ord. 954 § 2, 2001)

Chapter 17.15**FLOOD DAMAGE
PREVENTION**

Sections:

- 17.15.010 Statutory authorization – Findings.
- 17.15.020 Statement of purpose.
- 17.15.030 Methods of reducing flood losses.
- 17.15.040 Definitions.
- 17.15.050 General provisions.
- 17.15.060 Administration – Establishment of development permit.
- 17.15.070 Variance procedure.
- 17.15.080 Provisions for flood hazard reduction – General standards.
- 17.15.090 Specific standards.

17.15.010 Statutory authorization – Findings.

The Legislature of the state of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

A. The flood hazard areas of Newport are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 971 § 1, 2003)

17.15.020 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 971 § 1, 2003)

17.15.030 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. (Ord. 971 § 1, 2003)

17.15.040 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Appeal” means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

“Area of special flood hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letter A or V.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

“Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“Elevated building” means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site

grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters; and/or

B. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements found at NMC 17.15.090(A)(2).

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

“Recreational vehicle” means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not

part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent 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:

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“Variance” means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 971 § 1, 2003)

17.15.050

17.15.050 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of Newport.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Newport" dated March 4, 2002, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and the FIRM are on file at 200 S. Washington Avenue. The best available information for flood hazard area identification as outlined in NMC 17.15.060(C)(2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under NMC 17.15.060(C)(2).

C. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 971 § 1, 2003)

17.15.060 Administration – Establishment of development permit.

A. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in NMC 17.15.050(B). The permit shall be for all structures including manufactured homes, as set forth in NMC 17.15.040, and for all development including fill and other activities, also as set forth in NMC 17.15.040.

1. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been flood-proofed;

c. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the floodproofing criteria in NMC 17.15.090(B); and

d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

B. Designation of the Local Administrator. The building inspector is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

C. Duties and Responsibilities of the Local Administrator. Duties of the building inspector shall include, but not be limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of NMC 17.15.090(F)(1) are met.

2. Use of Other Base Flood Data (in A and V Zones). When base flood elevation data has not been provided (A and V zones) in accordance with NMC 17.15.050(B), Basis for Establishing the Areas of Special Flood Hazard, the building inspector shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer NMC 17.15.090, Specific standards, and 17.15.090(F), Floodways.

3. Information to Be Obtained and Maintained.

a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection (C)(2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in subsection (C)(2) of this section:

i. Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and

ii. Maintain the floodproofing certifications required in subsection (A)(1)(c) of this section;

iii. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in NMC 17.15.070. (Ord. 971 § 1, 2003)

17.15.070 Variance procedure.

A. Appeal Board.

1. The board of adjustments as established by the mayor shall hear and decide

appeals and requests for variances from the requirements of this chapter.

2. The board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building inspector in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the building inspector, or any taxpayer, may appeal such decision to the board of adjustments.

4. In passing upon such applications, the board of adjustments shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment, transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the board of adjustments may grant, deny and/or attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6. The deputy clerk/treasurer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances.

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsections (A)(4)(a) through (k) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

6. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (B)(1) of this section and otherwise complies with NMC 17.15.080(A), (C) and (D).

8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 971 § 1, 2003)

17.15.080 Provisions for flood hazard reduction – General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

B. AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

C. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

2. The proposed water well shall be located on high ground that is not in the floodway (WAC 173-160-171);

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be gener-

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ated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

F. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (NMC 17.15.060(C)(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates. (Ord. 971 § 1, 2003)

17.15.090 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided (zones A1-30, AH, and AE) as set forth in NMC 17.15.050(B), Basis for Establishing the Areas of Special Flood Hazard, or NMC 17.15.060(C)(2), Use of Other Base Flood Data (in A and V zones), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices;

provided, that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in NMC 17.15.060(C)(3)(b);

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).

C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved on sites:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions be elevated so that either:

a. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days;

2. Be fully licensed and ready for highway use, on their wheels or jacking systems are attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

3. Meet the requirements of subsection C of this section and the elevation and anchoring requirements for manufactured homes.

E. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

F. Floodways. Located within areas of special flood hazard established in NMC 17.15.050(B) are areas designated as floodways. Since the floodway is an extremely haz-

ardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair or reconstruction is started, or (ii) if the structure has been damaged and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent.

3. If subsection (F)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of NMC 17.15.080, Provisions for flood hazard reduction. (Ord. 971 § 1, 2003)

