

**CITY COUNCIL WORK SESSION
OCTOBER 3, 2011
6:00 P.M.
NEWBERG PUBLIC SAFETY BUILDING
401 EAST THIRD STREET**

WORK SESSIONS ARE INTENDED FOR DISCUSSION. NO ACTION WILL BE TAKEN ON THE AGENDA ITEMS AND NO DECISIONS WILL BE MADE. NO ORAL OR WRITTEN TESTIMONY WILL BE HEARD OR RECEIVED FROM THE PUBLIC.

- I. CALL MEETING TO ORDER**
- II. ROLL CALL**
- III. REVIEW OF COUNCIL AGENDA AND MEETING**
- IV. COUNCIL HOUSEKEEPING ITEMS**

Presentation from Code Enforcement Officer Cody Gardner on Defaults and Foreclosures.

- V. ADJOURNMENT**

ACCOMMODATION OF PHYSICAL IMPAIRMENTS:

In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the city recorder, at (503) 537-1283. For TTY service please call (503) 554-7793.

● City Manager's Office: e-mail: dan.danicic@newbergoregon.gov Fax: 537-5013 ●
Admin: 537-1261 ● Building: 537-1240 ● Public Works: 537-1273 ● Finance: 538-9421 ● Fire: 537-1230
Library: 538-7323 ● Municipal Court: 537-1203 ● Police: 538-8321 ● Maintenance: 537-1234 ● Utilities: 537-1205
Municipal Court Fax: 538-5393 ● Public Works Fax: 537-1277 ● Library Fax: 538-9720

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interoffice

MEMORANDUM

to: City Recorder Norma Alley; Mayor and City Council

cc: Terrence D. Mahr, City Attorney; Daniel Danicic, City Manager

from: Cody Gardner, Code Enforcement Officer

re: Code Enforcement Presentation on Defaults and Foreclosures

date: September 15, 2011

Terry and I will be giving a PowerPoint presentation to the City Council at the October 3, 2011, work session. Attached is the presentation material for submission.

from the desk of...

Cody Gardner
Code Enforcement Officer
City of Newberg
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Newberg, OR 97132
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503-554-7709
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Code Enforcement

by Cody Gardner



Nuisance Abatement for Default & Foreclosure Properties

October 3, 2011 – City Council Meeting

Presentation Overview

- ◆ Foreclosure Crisis
- ◆ Defaults v. Foreclosures
- ◆ Nuisance Abatement
- ◆ Future Abatement
- ◆ Conclusion

Foreclosure Crisis

- ◆ 1.4 million foreclosures nationwide
- ◆ The average period for a homeowner to lose their home in the foreclosure process rose 75% since 2008
 - ◆ Legal challenges
 - ◆ Government pressure to work with borrowers
 - ◆ Sheer volume of problem mortgage
- ◆ On average it takes 341 days for the bank to foreclose and repossess property in Oregon
- ◆ An estimated 150 residential default/foreclosure properties in Newberg

Defaults v. Foreclosures

◆ DEFAULT: Owner Occupied/Default Property

- ◆ Bank begins foreclosure process in the event that homeowner does not make a mortgage payment after 45 days
- ◆ Borrower continues to be the legal property owner until bank finalizes the foreclosure process
- ◆ Code Enforcement works with occupant to remedy violations

◆ FORECLOSURE: REO (Real Estate Owned)

- ◆ Bank owns property
- ◆ Property is usually violation-free
 - ◆ If violations do exist, bank representatives are readily available to resolve issues and/or concerns

Defaults v. Foreclosures (Cont.)

◆ Vacant/Abandoned Default Property

- ◆ Bank begins foreclosure process and the property owner vacates and/or abandons the property
 - ◆ Property owner vandalizes property
 - ◆ Garbage, junk, rubbish, animals, cars, etc.
 - ◆ Obnoxious vegetation

Defaults v. Foreclosures (Cont.)

- ◆ VACANT/ABANDONED (DEFAULT) Properties are the Problem!
 - ◆ Contacting legal owner is difficult
 - ◆ Persistent code violations (re-occurring)
 - ◆ Achieving compliance is difficult, lengthy and expensive
 - ◆ Property can remain vacant for years

Nuisance Abatement

- ◆ Resolving violations: Two Avenues per Code
 - ◆ Citations = \$59, 780 (Collected \$3,654.51)
 - ◆ Hiring out the work; placing liens against the property
 - ◆ \$200 for grass clean up (expensive)
 - ◆ City may not recoup cost of clean-up
 - ◆ Coordinating with volunteer groups

Nuisance Abatement (Cont.)

- ◆ Resolving violations:
 - ◆ Mortgage servicing company's
 - ◆ Computer Registry Systems
 - NAMFS (National Association of Mortgage Field Services)
 - Mers Link
 - Chain mail
 - ◆ Writ of Execution (force the sale of the property)
 - ◆ Property preservation with new owner
 - ◆ Collect unpaid citations

915 E 13th St



915 E Thirteenth St



111 E 9th ST



111 E 9th St



412 Dayton AVE



412 Dayton AVE



902 S Chehalem St



902 S Chehalem St



09/07/2011 14:32

904 S River St



904 S River St



904 S River St



1802 N College St



1802 N College St



1802 N College St



3101 Middlebrook Dr



3101 Middlebrook Dr



3101 Middlebrook Dr



3101 Middlebrook Dr



215 E Sherman St



215 E Sherman St



215 E Sherman St



215 E Sherman St



215 E Sherman St





215 E Sherman St

215 E Sherman St



Future Abatement

- ◆ Working to find innovative legal avenues
- ◆ Continue to work with volunteer groups to resolve issues in the community
- ◆ Grinding the axe
- ◆ Working with Oregon Code Enforcement Association to form a legislative committee
 - ◆ Committee will work to propose legislation to fight blight created by default/foreclosed properties

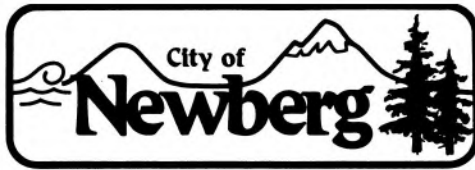
Conclusion

- ◆ Three types of property in default/foreclosure:
 - ◆ Bank Owned
 - ◆ Default Occupied
 - ◆ Default Vacant

- ◆ 99% of the time, default vacant properties are the problem
 - ◆ These properties can be vacant for years
 - ◆ Legal owner has left city, state or country
 - ◆ Contacting the legal owner is difficult/impossible

- ◆ Abate nuisances using all resources available

- ◆ Grind the axe, stay connected, innovate!



**CITY OF NEWBERG COUNCIL AGENDA
OCTOBER 3, 2011
7:00 P.M. MEETING
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

Mission Statement

The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.

Vision Statement

Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.

I. CALL MEETING TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. CITY MANAGER'S REPORT

V. SPECIAL PRESENTATION

1. Consider a motion approving a proclamation recognizing Officer Chris Rasmussen for displaying valor and extremely professional actions under significant and potentially deadly circumstances. (Pgs. 3-4)
2. Consider a motion approving a proclamation declaring October 1-8 as "Days of Culture". (Pgs. 5-6)

VI. PUBLIC COMMENTS

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

VII. PUBLIC HEARINGS

1. Consider a motion approving **Ordinance No. 2011-2735** establishing provisions pertaining to second-hand dealers and pawn shops. (Pgs. 7-23)
(Legislative Hearing – 1st Reading)

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

2. Consider a motion approving **Ordinance No. 2011-2743** amending the Municipal Code section relating to the Traffic Safety Commission. (Pgs. 25-31)
(Legislative Hearing – 2nd Reading)

VIII. NEW BUSINESS

Consider a motion approving **Resolution No. 2011-2972** initiating a zone change, Comprehensive Plan amendment, and lot line adjustments for the Public Safety Building and Newberg Thrift Shop properties. (Pgs. 33-40)

IX. COUNCIL BUSINESS

X. ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please call (503) 554-7793

Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 5:00 p.m. on the preceding Thursday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

DATE ACTION REQUESTED: October 3, 2011

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

SUBJECT: Approve a proclamation recognizing Officer Chris Rasmussen for Displaying Valor and Extremely Professional Actions Under Significant and Potentially Deadly Circumstances

Contact Person (Preparer) for this
Motion: Chris Bolek – Patrol Division Captain
Dept.: Newberg-Dundee Police Department

File No.:

RECOMMENDATION:

Approve a proclamation recognizing Officer Chris Rasmussen for displaying valor and extremely professional actions under significant and potentially deadly circumstances.

EXECUTIVE SUMMARY:

Officer Chris Rasmussen stopped a threat of serious physical injury or death to himself, other officers, the suspect’s family and members of the community using excellent judgment, decisive, certain and immediate actions, performing valiantly in an extremely professional manner.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

This supports the Council’s desire in recognizing outstanding service to our community.



PROCLAMATION

THIS IS A PROCLAMATION RECOGNIZING OFFICER CHRIS RASMUSSEN FOR DISPLAYING VALOR AND EXTREMELY PROFESSIONAL ACTIONS UNDER SIGNIFICANT AND POTENTIALLY DEADLY CIRCUMSTANCES

WHEREAS, Chris Rasmussen while on duty on June 24, 2011, and coaching a recruit police officer, responded to a report of a family disturbance, a call that was initially assigned to another officer; and

WHEREAS, Chris Rasmussen true to his work ethic, spoke up on the radio, said he was closer to the location and that he would take the call, and

WHEREAS, Chris Rasmussen directed the recruit officer to prepare to employ a less lethal force option; and

WHEREAS, Chris Rasmussen upon arrival at the disturbance with the recruit police officer, was almost immediately confronted by a male person armed with a large knife, who aggressively charged at and threatened officers by both words and actions; and

WHEREAS, Chris Rasmussen repeatedly ordered the male person to stop and drop the knife as the male quickly advanced an approximate 75 foot distance; and

WHEREAS, Chris Rasmussen fired one shot from his service weapon when the male suspect got to within approximately 20 feet of his and the recruit officer's position, stopping the suspect and the accompanying threat of death or serious physical injury to both officers and potentially others; and

WHEREAS, Chris Rasmussen calmly reported to dispatch and other officers that medical personnel was needed, then he and the recruit officer rendered first aid to the male suspect; and

WHEREAS, Chris Rasmussen exercised excellent judgment, decisive, certain and immediate actions, stopping what would have been a continued threat of death or serious physical injury to himself, the recruit officer, members of the community, the suspect's family and other officers;

NOW, THEREFORE, IT IS PROCLAIMED by Mayor Bob Andrews of the City of Newberg, Oregon, that the citizens of Newberg express their warmest appreciation and gratitude to ***Officer Chris Rasmussen*** for his valiant actions and performance of duties in an extremely professional manner.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Newberg to be affixed on this 3rd day of October, 2011.

Bob Andrews, Mayor

DATE ACTION REQUESTED: October 3, 2011

Order ___ Ordinance ___ Resolution ___ Motion XX Information ___
No. No. No.

**SUBJECT: Approve a Proclamation declaring
October 1-8 as Oregon's statewide Days of Culture.**

Contact Person (Preparer) for this
Motion: Bob Andrews, Mayor
Dept.: Administration
File No.:

RECOMMENDATION:

Approve a proclamation declaring October 8, 2009, as a Day of Culture.

EXECUTIVE SUMMARY:

On September 8, 2011, Dana Cera from the Oregon Cultural Trust contacted the City and inquired if the City would support a proclamation declaring October 1-8 as Days of Culture. The Oregon Cultural Trust has supported the Chehalem Cultural Center with a \$15,000 grant in 2009. The Coalition estimates the total investment from the Coalition into Newberg's cultural community is near \$25,000 since 2004. With great appreciation and gratitude to the Coalition, staff brings forward this proclamation for your consideration.

FISCAL IMPACT:

None

STRATEGIC ASSESSMENT:

This supports the Council's desire to be an active participant in the community by reaching out and recognizing the importance of the Chehalem Valley Cultural Center and the partnership with the Oregon Cultural Trust.



PROCLAMATION

A PROCLAMATION OF THE CITY OF NEWBERG, OREGON, DECLARING OCTOBER 1-8 AS “DAYS OF CULTURE”

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades;

WHEREAS, Oregon’s 1,300 arts, heritage and humanities non-profits – museums, libraries, theaters, historical societies, arts centers and heritage sites – are the heart of our communities, which draws us together for a common purpose, understanding, and celebration;

WHEREAS, humanities, heritage, and arts embody much of the accumulated wisdom, intellect, and imagination of humankind, which enhance and enrich the lives of every American;

WHEREAS, arts, humanities and heritage play a unique role in the lives of our families, our communities, and our country;

WHEREAS, the Oregon Culture Trust presents Oregon Days of Culture, October 1-8, during National Arts and Humanities month, encourages Oregonians to participate at events celebrating all these positive attributes;

WHEREAS, the Oregon Cultural Trust celebrates October 8th, the anniversary of Oregon’s unique culture tax credit, as Oregon Day of Culture;

NOW, THEREFORE, IT IS PROCLAIMED by Mayor Bob Andrews and the City Council of the City of Newberg, Oregon, that every year henceforth October 1-8 are Oregon’s statewide “**Days of Culture**” in Newberg and call upon our citizens to celebrate and promote the vibrancy and depth of the arts, humanities and heritage organizations in our state. We also encourage greater participation by our citizens in Oregon’s culture and recommend taking action for arts, humanities, and heritage in Newberg.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the City of Newberg to be affixed on this 3rd day of October, 2011.

Bob Andrews, Mayor

DATE ACTION REQUESTED: October 3, 2011

Order ____ **Ordinance** XX **Resolution** ____ **Motion** ____ **Information** ____
No. **No. 2011-2735** **No.**

SUBJECT: An Ordinance establishing provisions for second-hand dealers and pawn shops to operate in the City of Newberg; delegating authority to the City police chief and/or his/her designee for application and permit approval; designation of regulated property and required reporting as well as other applicable decision making; and establishing chapter 5.40 entitled, "Second-hand Dealers and Pawn Shops" to include the provisions of this ordinance.

Contact Person (Preparer) for this Ordinance: Sergeant Eric Ronning

Dept. : Police

File No.:
(if applicable)

HEARING TYPE: **LEGISLATIVE** **QUASI-JUDICIAL** **NOT APPLICABLE**

RECOMMENDATION:

Adopt **Ordinance No. 2011-2735**

EXECUTIVE SUMMARY:

Oregon Revised Statute (ORS) 646A.060 provides that owners of second-hand stores gather certain information regarding the individuals presenting used items for purchase and resale by store owner as well as information on the items themselves. (ORS 646A.060 is attached to this RCA.)

Currently, there are no code provisions, requirements for businesses or reporting procedures for "second-hand dealers." The police department wants to ensure that "second-hand dealers" are regulated so that there isn't an increase in criminal activity due to the nature of the business.

In an effort to maintain records on the purchase and sale of certain used property by second-hand dealers to minimize the risk of criminal activity (theft of property), it is necessary to have code provisions to regulate the reporting of used property by second-hand dealers.

FISCAL IMPACT: Insignificant costs to the police department to monitor the reported purchases of regulated property by the second-hand dealers.

STRATEGIC ASSESSMENT: Minimizes the risk of criminal activity in the city relating to stolen property by making Newberg a less desirable place for the sale of stolen property from outside areas.

**Attachment to RCA
(Ordinance No. 2011-2735)**

646A.060 Purchase of used goods; records; application to pawnbrokers. (1) A person doing business as a consignment store, a buy-sell store, a secondhand store or a similar store or enterprise that in the regular course of business buys used goods from individuals for the purpose of resale shall:

(a) Require that the individual from whom the person buys the used goods present proof of identification; and

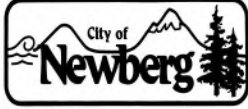
(b) Maintain a record of the name and address of the individual, the type of identification provided by the individual, the date and a description of the goods bought from the individual.

(2) If the goods described in subsection (1) of this section are private metal property or are constructed of or contain parts made of nonferrous metal property as those terms are defined in ORS 165.116, in addition to the requirements of subsection (1) of this section, the person shall comply with and is subject to the penalty provided for violating a provision of ORS 165.107, 165.118 or 165.122 that is applicable to a scrap metal business as defined in ORS 165.116.

(3) The person shall make all records required to be maintained by subsection (1) of this section available to any peace officer on demand.

(4) This section does not apply to pawnbrokers licensed under ORS 726.080.

(5) This section does not preempt, invalidate or in any way affect the operation of any provision of a county, city or district ordinance regulating the activities of consignment stores, buy-sell stores, secondhand stores or similar stores or enterprises that in the regular course of business buy used goods from individuals for the purpose of resale. [Formerly 646.848; 2009 c.811 §13]



ORDINANCE No. 2011-2735

AN ORDINANCE ESTABLISHING PROVISIONS FOR SECOND-HAND DEALERS AND PAWN SHOPS TO OPERATE IN THE CITY OF NEWBERG; DELEGATING AUTHORITY TO THE CITY POLICE CHIEF AND/OR HIS/HER DESIGNEE FOR APPLICATION AND PERMIT APPROVAL, DESIGNATION OF REGULATED PROPERTY AND REQUIRED REPORTING AND OTHER APPLICABLE DECISION MAKING; AND ESTABLISHING CHAPTER 5.40, ENTITLED, "SECOND-HAND DEALERS AND PAWN SHOPS" TO INCLUDE THE PROVISIONS OF THIS ORDINANCE

RECITALS:

1. Oregon Revised Statutes (ORS) 646A.060 provides that owners of second-hand stores gather certain information regarding the individuals presenting used items for purchase and resale by store owner and information on the items themselves.
2. There are currently some second-hand stores doing business in the city of Newberg.
3. Police Sergeant Eric Ronning has met with the owners of the present businesses. They are cooperative and desire to continue to do business in Newberg as specified under the proposed code provisions.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1 – Adoption of Code Provisions.

The City adopts the code provision set out in Exhibit "A" to this ordinance. The City, by this reference, fully incorporates Exhibit "A" as part of this ordinance to be part of the City Code of the City of Newberg.

Section 2 – Newberg Code Provisions.

The Code provisions set out in Exhibit "A" are the Code provisions adopted by the City. The City delegates the authority to its code publishing company to change numberings or format of the code provisions without changing the subject or content of the provisions. Any change in subject or content of the provisions must be adopted by the City Council.

- **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: November 2, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 3rd day of October, 2011, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, City Recorder

ATTEST by the Mayor this 6th day of October, 2011.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through City Council at 01/03/2011 meeting. Or, None.
By and through City Council at 06/20 /2011 meeting. Or, None.
(committee name) (date) (check if applicable)

Code Provisions

The following provisions of the City Code of the City of Newberg are added to the City Code and shall have full force and effect:

CHAPTER 5.40: SECOND-HAND DEALERS AND PAWN SHOPS

Section
5.40.010 Short Title.
5.40.020 Purpose.
5.40.030 Definitions.
5.40.040 Unauthorized Sale of Property.
5.40.050 Permit Required.
5.40.060 Fee.
5.40.070 Application Process.
5.40.080 Issuance, Renewal or Revocation of Permit.
5.40.090 Change of Place of Business.
5.40.100 Dealer Recordkeeping.
5.40.110 Reporting Transactions.
5.40.120 Holding Periods.
5.40.130 Inspection of Property and Records.
5.40.140 Penalty.

§ 5.40.010 Short Title.
 Sections 5.40.010 through 5.40.140 shall be known and may be cited as the “Second-Hand Dealer and Pawn Shop Ordinance”.

§ 5.40.020 Purpose.
 This chapter of the Code regulates the purchase of used property by certain businesses. This activity presents an extraordinary risk of misuse to conceal criminal conduct involving the theft of personal property. The risk of misuse is present despite the best efforts of legitimate businesses to otherwise control the risk.

§ 5.40.030 Definitions.
 For the purpose of this chapter of the City Code, the following mean:

“Acceptable Identification” – Either:

A. A current driver’s license or State of Oregon Identification Card issued by the Department of Motor Vehicles that includes the date of birth, photograph, and physical description of the person offering the identification; or

B. Two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

“Application Date” – The date the city receives the application from an applicant for a second-hand dealer permit.

“Business” – A shop, store, enterprise, profession, activity, establishment or undertaking of any nature conducted directly or indirectly for private profit or benefit and as a substantial means of a person’s livelihood. The term is not meant to include the activity of any federal, state, or local government or governmental subdivision or agency, or of any organization exempt from taxation under section 501 (c)(3) of the Internal Revenue Code

“Dealer or Second-hand Dealer” – A sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, partnership, pawnbroker licensed under the Oregon Pawnbroker’s Act, ORS 726.020, 726.990 or any other form of organization for doing business and that either:

- A. Acquires regulated property at or from business locations within the City of Newberg, or on behalf of such a business regardless of where the acquisition occurs, or
- B. Offers for sale regulated property.

“Occasional Second-Hand Dealer” – Dealers that offer for sale not more than 50 items of regulated property in any one-year period. The term “Dealer” in this Chapter and all regulations herein refer to second-hand dealers, occasional second-hand dealers and pawnbrokers unless specifically stated otherwise.

“Dealer” does not include:

- A. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501 (C) 3 organizations; or
- B. A person whose only business transactions with regulated property in the City of Newberg consist of the sale of personal property acquired for household or other personal use; or
- C. A person whose only business transactions with regulated property in the City of Newberg consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

“Owner” – A person who has a right of possession to an item of property superior to that of the seller.

“Person” – Any individual, partnership, corporation or association.

“Personal Property” – Any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, chose in action, and evidence of debt or of contract.

“Police Chief” – The chief of police of the City of Newberg or the police chief’s designee.

“Purchase” – The acquisition of or the act of acquiring title to property by a buyer in exchange for valuable consideration given to the seller. The term is not meant to include:

- A. A trade-in, by which a seller acquires title to property as payment or part payment for the purchase of new or used merchandise;
- B. Bailment for sale, by which a seller consigns property to another for sale;
- C. A pledge loan, by which a pawn broker licensed by the State of Oregon lends money secured by a pledge;
- D. The acquisition of a security interest, by which a person acquires an interest in property to secure payment or performance of an obligation.

“Regular Second-Hand Dealer” – A person who purchases regulated property while carrying on a business and who does not qualify as an occasional second-hand dealer under this ordinance.

“Regulated property” means:

A. “Used items.”

1. Precious metals. Examples include:

a. Any metal that is valued for its character, rarity, beauty or quality, including gold, silver, platinum, or any other such metals, whether as a separate item or in combination as a piece of jewelry.

b. Jewelry containing precious metals or precious gems including but not limited to rings, necklaces, pendants, earrings, brooches, bracelets, or chains.

2. Precious gems. Examples include: Any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other such precious or semi-precious gems or stones, whether as a separate item or in combination as a piece of jewelry.

3. Precious metal scrap: Any item composed in part or in whole of precious metal which does not contain identifiable markings or inscriptions and which is valued primarily for the scrap value of the precious metal. This does not include sterling silver wares.

4. Watches.

5. Sterling silver. Examples include: flatware, candleholders, coffee and tea sets, ornamental objects, champagne flutes, wineglasses or serving pieces such as: platters, bowls, trays, water pitchers, open baker, ice buckets, shell dishes or salt and pepper shakers.

6. Electronic equipment. Examples include:

a. Audio equipment including but not limited to: tape players, tape decks or players, compact/digital disc players, sound metering devices, tuners, amplifiers, speakers, transceivers, equalizers, receivers, phonographs, turntables, stereos, radios, car stereos, car speakers, microphones, broadcasting equipment, citizen band radios/transceivers, digital audio recorders or players.

b. Video equipment including but not limited to: televisions, videotape or videodisc recorders, videotape or videodisc players, video cameras, video projectors, video monitors, digital video recorders or players.

c. Electrical office equipment including but not limited to: telefax machines, laser printers, copiers, duplicators, typewriters, calculators, cash registers, transcribers, dictaphones, computers, home computers,

modems, monitors, any computer equipment or accessories having uniquely identifiable parts or identifiable software.

d. Telephones or telephone equipment including but not limited to answering machines, cellular telephones, or satellite telephones.

Video game equipment including but not limited to: game units and games that are handheld, console or played on a computer, video games on disks or cartridges and video game accessories.

f. Other electronic equipment including but not limited to: global positioning systems, electronic navigation devices or radar detectors.

7. Photographic and optical equipment and any accompanying bags including but not limited to: cameras, camera lenses, camera filters, camera motor drives, light meters, flash equipment, movie projectors, slide projectors, photography processing equipment, photography enlarging equipment, binoculars, telescopes, opera glasses, microscopes, surveying equipment both optical and electronic, rifle scopes, spotting scopes, electronic sighting equipment, tripods, accessories and components, digital image recorders or display devices.

8. Power yard and garden tools including but not limited to: garden tractors, lawn mowers, rototillers, lawn sweepers, weed or brush cutters, edgers, trimmers, blowers, chippers, shredders or ladders.

9. Power equipment and tools including but not limited to: air hammers, air tools, nail guns, power staplers, power saws, power sanders, chainsaws, power planers, power drills, routers, lathes, joiners, shop vacuums, paint sprayers and accessory equipment, generators, air compressors, pressure washers, logging equipment, welding or cutting equipment or components, measuring devices and gauges or construction equipment.

10. Automotive and hand tools including but not limited to: wrench sets, socket sets, screw driver sets, pliers, vise grips, tool boxes, auto body hammers, jacks, timing lights, testing and analyzing equipment or components.

11. Musical instruments and any accompanying cases or bags including but not limited to: electronic keyboards, guitars, violins, cellos, trumpets, trombones, saxophones, flutes, drums, percussion instruments, electronic synthesizers, or mixing boards.

12. Firearms including but not limited to: rifles, shotguns, handguns, revolvers, pellet guns, or BB guns.

13. Sporting equipment limited to kayaks, bicycles, golf clubs and bags, pool cues or cases, snow or water skis, snow or water boards, fishing rods or reels, skates, saddles or tack.

14. Outboard motors and boating accessories limited to out drives, props, inboard engines, electric boat motors, boat covers, tops, or unlicensed boat trailers.

15. Household appliances, including but not limited to microwave ovens, sewing machines, vacuums, mixing and food preparation equipment.

16. DVDs and Blu-Ray discs.

17. Property that is not purchased by a bona fide business for investment purposes, limited to:

- a. Gold bullion bars (0.995 fine or better);
- b. Silver bullion bars (0.995 fine or better);
- c. All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value; or
- d. Postage stamps, stamp collections and philatelic items whose intrinsic, market or collector value is greater than the apparent legal or face value.

B. "New items."

1. New items purchased from a licensed business are exempt from regulation under this section if the Dealer has a bill of lading, receipt, invoice or the equivalent for the new items that specifies the seller's business name, physical and mailing address, date of transaction and a description of the purchased items. The bill of lading, receipt, invoice or the equivalent must be held by the Dealer for one year or as long as the property is in the Dealer's possession, whichever is longer. Upon reasonable belief that a specific licensed business is dealing in stolen property or is acquiring property in violation of this or any jurisdiction's second-hand dealer requirements, the chief of police may deem that new items purchased from that specific licensed business are regulated property.

2. Items acquired from a manufacturer, manufacturer's representative or distributor that are discontinued or have been used for display or demonstration but not previously sold are new and exempt from regulation under this section if the Dealer has a bill of lading, receipt, invoice or the equivalent that includes the information specified in section B.1. The Dealer must hold the bill of lading, receipt, invoice or the equivalent for one year or as long as the property is in the Dealer's possession.

C. "Regulated property" does not include any of the following property:

1. Vehicles required to be registered with the Oregon Motor Vehicles Division;
2. Boats required to be certified by the Oregon Marine Board;
3. Books and comic books;
4. Glassware, objects, d'art, or sports cards and sports memorabilia;
5. Furniture;
6. Refrigerators, freezers, stoves, ovens, dishwashers, washers, and dryers;

§ 5.40.040 Unauthorized Sale of Property.

A. No person shall sell or attempt to sell personal property to a second-hand dealer without the consent of the property's owner.

B. A second-hand dealer shall post a notice substantially similar to that set forth in subsection (C) of this section in the manner and at the locations described in subsection (D) of this section. The size

of the notice shall be no smaller than eight and one-half inches by 11 inches with lettering no smaller than one-fourth of an inch in height.

C. The notice shall be worded substantially as follows:

NOTICE

The sale or attempted sale of property to a second-hand dealer without consent of the property's owner is punishable by a civil penalty not to exceed \$500 per item.

Don't sell property without consent of the property's owner. You will be held strictly liable for violation of this law.

D. Every copy of the notice required to be posted under this section shall be posted in a manner reasonably calculated to provide patrons actual knowledge of the contents of the notice. A copy of the notice shall be posted:

1. Outside each point of entry intended for patron use; and
2. At or near each place where a regular second-hand dealer purchases used personal property in the regular course of business.

E. If a significant number of the patrons of the regular second-hand dealer use a language other than English as a primary language, the notice shall be worded in both English and the primary language or languages of the patrons.

§ 5.40.050 Permit Required.

A. No second-hand dealer shall carry on a second-hand business without a second-hand dealer permit. A second-hand dealer permit shall be required in addition to a business license required by Chapter 5.05 of the Newberg Municipal Code, or any other city license or permit.

B. A second-hand dealer engaged in a second-hand business on or before the effective date of this ordinance who intends to continue that business after the effective date of this ordinance shall apply for a second-hand dealer permit within 30 days of the effective date of this ordinance. If the second-hand dealer submits the application within the 30 days, the dealer may continue to purchase regulated property without a second-hand dealer permit until such permit is issued or denied.

C. The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales" is exempt from these regulations if all of the following are present:

1. No sale exceeds a period of 72 consecutive hours; and
2. No more than four sales are held at the same location in any 12-month period.

§ 5.40.060 Fee. Second-hand dealers are required to pay business licensing fees pursuant to Chapter 5.05 of the Newberg Municipal Code. No additional fees beyond those required by Chapter 5.05 are required to obtain or renew a second-hand dealer permit.

§ 5.40.070 Application Process. A second-hand dealer shall apply for a second-hand dealer permit or renew an existing second-hand dealer permit in the following manner:

A. The city shall make available an application form for second-hand dealer permits and renewal of second-hand dealer permits.

B. The application form may require all second-hand dealers to supply the following information:

1. The name, address, telephone number, social security number, date of birth and principal occupation of the person applying for the permit.
2. The name of the second-hand business in whose name the permit should be issued if the application is approved.
3. The mailing address of the second-hand business and, if different from its mailing address, the location where the business is to be conducted in the city.
4. The Web address of any and all Web pages used to acquire or offer for sale regulated property on behalf of the second-hand dealer, and any and all internet auction account names used to acquire or offer for sale regulated property on behalf of the second-hand dealer.
5. An estimate of the total number of transactions the applicant expects the second-hand business to complete in the next calendar year.
6. Whether the applicant or any other person who helps own, manage or operate the second-hand business ever has been engaged in a similar business; whether any permit similar to the one applicant seeks pursuant to this ordinance ever has been issued to the applicant or any person who helps own, manage or operate the second-hand business; whether any such permit so issued ever has been suspended or revoked.
7. The past five years of employment history of the applicant.
8. A description of the property interest held by any person or entity with an interest in the applicant's second-hand business.
9. The name, address and phone number of each person or entity who has loaned money or other property to the applicant for any purpose related to the applicant's second-hand business.
10. A list of the businesses in which the applicant has an interest. A person need not disclose stock ownership in publicly traded corporations if the person owns less than five-percent of the publicly traded corporation's outstanding shares.
11. Any criminal arrest or conviction the applicant has had in the past 15 years. The applicant may be required to disclose where, when, and the nature of any arrest or conviction.
12. Such other information that the police chief may reasonably and lawfully require, including the fingerprints and a photograph of the applicant or any other person who will help own, manage or operate the second-hand business.

C. The city may require and/or perform a criminal background check for the applicant as well as any other person who will own, manage or operate the second-hand business.

D. The application form may require all second-hand dealers to supply the following information regarding any person who helps own, manage or operate the second-hand business: (Occasional Dealers are generally exempt from this requirement)

1. The name, address, phone number, social security number, date of birth and principal occupation.
2. The past five years of employment history.
3. Any criminal arrest or conviction that any person who helps own, manage or operate the second-hand business has had in the past 15 years. The interested persons may be required to disclose where, when and the nature of any arrest or conviction.
4. A list of the businesses in which the person(s) has/have an interest. A person need not disclose stock ownership in publicly traded corporations if the person owns less than five-percent of the publicly traded corporation's outstanding shares.

E. The applicant shall complete the relevant portions of the application form and return it to the city. The police chief shall be responsible for reviewing the application.

§ 5.40.080 Issuance, Renewal or Revocation of Permit.

A. The police chief shall deny an application for issuance or renewal of a permit or revoke an issued permit if the police chief has probable cause to believe any of the following conditions exist:

1. The applicant, or any person who will help own, manage or operate the second-hand business, has owned or operated a second-hand business regulated under this ordinance or any substantially similar ordinance and, within the five years prior to the application date:

- a. has had a second-hand business permit revoked for a reason that would be grounds for a denial or revocation pursuant this ordinance; or
- b. the second-hand business has been found to constitute a public nuisance.

2. The applicant, or any person who will help own, manage or operate the second-hand business, has been convicted of a felony or any crime involving a false statement or dishonesty within 15 years prior to the application date.

3. The applicant has:

- a. knowingly made a false statement in the application;
- b. knowingly omitted information requested to be disclosed in the application; or
- c. completed the application with reckless disregard for the truth or accuracy of the statements made therein.

4. A lawful inspection of the second-hand business premises by the police chief has been unjustifiably refused by a person who helps own, manage or operate the business.

5. The second-hand business, the applicant or any person who will help own, manage or operate the second-hand business, has more than ten violations of this ordinance, the Newberg City Code, any State or Federal law, or any combination thereof within a two-year period, including the two years prior to the application date.

6. There is clear and convincing evidence of substantially more criminal activity within 500 feet of the second-hand business as compared to other similar businesses located in the city.

B. Notwithstanding the requirements of subsection (A) of this section, the police chief may grant or not revoke a second-hand dealer permit despite grounds for denial or revocation if the police chief concludes that the applicant has established more likely than not that the basis for denial or revocation:

- 1. is unlikely to recur;
- 2. is remote in time; or
- 3. is not reasonably related to the purpose of this ordinance.

C. If the police chief approves an application for a second-hand dealer permit or application for renewal of a second-hand dealer permit, a permit shall be issued in the name of the second-hand business for the location specified by the applicant in the application form. The permit shall be non-transferable and valid for one year from the date of issue. The permit shall be clearly displayed at the second-hand business in a manner readily visible to the business' customers.

D. If the police chief denies an application for a second-hand dealer permit or application for renewal of a second-hand dealer permit or orders the revocation of an issued second-hand dealer permit, the applicant may appeal to the city manager. The city manager may accept or reject the appeal, waive any requirements imposed, or refer the matter to the city council. The applicant may further appeal the decision of the city manager to the city council. All appeals must be made by submitting a formal request to the city manager, together with a non-refundable processing fee as established by city council resolution.

E. Any appeal of a decision must be made within fifteen (15) days of the decision together with the processing fee. If an appeal is not filed timely, the decision becomes final. The decision of the City Council is final.

§ 5.40.090 Change of Place of Business.

A second-hand dealer permit is valid only at the location printed on the permit. Whenever a second-hand business changes its location within the city, the business shall give written notice to the police chief and shall surrender its current second-hand dealer permit for cancellation. The newly-issued permit shall be valid only for the balance of the term remaining under the old permit.

§ 5.40.100 Dealer Recordkeeping.

A. The police chief shall design a purchase report form and make copies available to all second-hand dealers. These forms, or any other substantially similar form approved by the police chief, shall be utilized to record purchases of regulated property by second-hand dealers. The form may request any information reasonably calculated to help the police chief identify the purchaser, the seller or the property associated with the purchase of regulated property.

B. Whenever a second-hand dealer purchases regulated property for business purposes:

1. The dealer shall obtain and make a copy of acceptable identification from the seller along with the seller's current residence address;
2. The dealer shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled out form; and
3. The dealer shall either:

a. Photograph the seller of the regulated property. The photograph shall show the face and shoulders of the seller. The seller shall not be photographed wearing any head-covering, dark glasses or similar object that obscures the seller's facial features. Untinted eyeglasses may be worn by the seller when photographed; or

b. Place the print (identifiable) of the seller's right thumb (left if right unavailable) in the designated area of the purchase report form. If the seller cannot provide a thumbprint, the second-hand dealer shall note the reason on the purchase report form. Thumbprints may be produced using a digital format with prior approval of the process from the police chief.

C. Whenever a second-hand dealer purchases regulated property for business purposes while at or near the premises of the second-hand business:

1. The dealer shall obtain and make a copy of acceptable identification from the seller along with the seller's current residence address; and
2. The dealer shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled-out form.

[]

§ 5.40.110 Regulated Property Sale Limitations

A. A Dealer is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership if the Dealer complies with the remaining requirements of this ordinance and when;

1. The item is acquired through consignment by a Dealer from a person who lives more than 100 miles from the City of Newberg and the consigned property is mailed, shipped, or sent by courier to the Dealer.
2. The item is acquired during a trade show. All items acquired during a trade show by a Dealer must be reported. At the time of the transaction, the Dealer must enter on a transaction report a complete, intelligible and accurate description of the regulated property of sufficient detail to distinguish like objects one from the other into a transaction record. The Dealer must also record the name and date of the event and the address of the venue in the name, date, and address fields of the transaction report form. Items acquired during a trade show may be sold or traded during the trade show without being held. Items still in a Dealer's possession at the end of the show will be subject to the hold period requirement in effect for that Dealer's acquisitions of regulated property.
3. The item is acquired from a business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from a 501(c)3 organization. The Dealer must transaction report form and the date of the acquisition.
4. The item is acquired through an internet transaction. The Dealer must record on the transaction report the seller's email address or seller's identification, the name of the internet website that listed the item, and the date of the acquisition.
5. The item is acquired by the Dealer from a yard sale, garage sale, estate sale or swap meet. The Dealer must record on the transaction report the physical address of the sale location and the date of the acquisition.

Items acquired under Subsection (A) must be held in compliance with the hold period requirement in effect for the Dealer's other acquisitions of regulated property. The hold period begins the day the acquisition is reported to the Newberg-Dundee Police Department.

B. A Dealer is not required to obtain the seller's identification, photograph the seller, record the seller's thumbprint, or have the seller complete the Declaration of Proof of Ownership or hold the item if the Dealer complies with the remaining requirements and if:

1. The item is used, regulated property acquired from a licensed business that has already entered the acquisition of that item into the record reporting system designated by the chief of police
 - a. the name and location address of the second-hand business or pawnbroker into the name and address fields;
 - b. the date of the acquisition and the original transaction report number, receipt number or item number assigned in the original transaction record.
2. The item is used, regulated property acquired from a licensed business that is not subject to this ordinance or would not be if the business were located in the City of Newberg. The Dealer must keep a receipt for the item from the licensed business that includes the licensed business' name and a description of the item. The receipt must be retained at the Dealer's business location for one year or until the item is sold, whichever

is longer. The Dealer must record on the transaction report the name and location address of the business into the name and address fields of the transaction report form, and the date of the acquisition.

E. Every article of regulated property purchased by a second-hand dealer and required to be recorded on a purchase report form shall be assigned a unique number, letter, symbol or other identification mark. This unique mark shall appear both on the purchase report form and, while the article is possessed by the second-hand dealer, on the article itself.

§ 5.40.120 Reporting Transactions.

A. Second-hand dealers shall communicate the information from each purchase report form to the Newberg-Dundee Police Department within three days of the date the transaction recorded on the purchase report form occurred. The entire purchase report form is subject to public disclosure pursuant to Oregon Public Records Law.

B. The police chief may designate the format for the transfer of information from purchase report forms and may direct that it be communicated by means of an automated electronic reporting system.

C. Only communications containing complete information shall be deemed to comply with this section.

D. In the event that the automated electronic reporting system becomes inoperable, a second-hand dealer's computer system becomes inoperable or other event that makes reporting within the time allowed by subsection (A) of this subsection impossible, the second-hand dealer shall immediately report the occurrence of such event to the police chief. The police chief may suspend the reporting requirements of subsection (A) of this subsection for a reasonable period until electronic reporting can resume. Once the police chief determines that reporting can resume, second-hand dealers must, within 12 hours, input and transmit the information required under subsection (A) for all purchases made during any period reporting was suspended by the police chief using the approved automated electronic reporting system.

E. If, after establishing the format and requirements for the transmission of information from purchase report forms, the police chief alters the required format, second-hand dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a second-hand dealer must submit a written request for additional time to the police chief before the deadline.

§ 5.40.130 Holding Periods.

A. A copy of every purchase report form filled out and every photograph or thumbprint taken as required by this ordinance shall be kept on the premises of the second-hand business during normal business hours for at least three years from the date of purchase. The report form and the photograph or thumbprint shall be subject to inspection by the police chief pursuant to Newberg City Code 5.40.130 this ordinance.

B. All regulated property purchased by a second-hand dealer and required to be recorded on a purchase report form shall be held by the dealer for at least 25 days from the date of purchase unless otherwise specified. The dealer shall maintain the property in substantially the same form as when purchased and shall not alter, exchange, or commingle the property. During the holding period the regulated property shall be kept on the business premises at all times and shall be subject to inspection by the police chief.

C. Regulated property not subject to a holding period specifically includes; DVDs, Blue Ray Disks, Video Game Disks or Cartridges, Music CDs, non-power automotive, yard and garden and other hand tools such as sockets, hammers, wrenches and the like that are not sold in a complete sets and are devoid of any serial numbers or identifiable markings applied by the manufacturer or previous owner;

Precious scrap metal, Gold bullion bars (0.995 fine or better); Silver bullion bars (0.995 fine or better); All tokens, coins, or money, whether commemorative or an actual medium of exchange adopted by a domestic or foreign government as part of its currency whose intrinsic, market or collector value is greater than the apparent legal or face value and firearms subject to federal record keeping under Title 18 USC Sec. 921 and 923.

D. All regulated property that has an altered, obstructed or removed serial number, inscription or other identifying mark and that is purchased by a second-hand dealer and is required to be recorded on a purchase report form, shall be held by the second-hand dealer for at least 90 days from the date of purchase. The property shall be maintained in the same manner and place as required under subsection (B) of this section.

E. The police chief may give written notice to a second-hand dealer holding regulated property that the police chief has reasonable grounds to believe more likely than not a specific item of regulated property is associated with criminal conduct. The second-hand business holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under subsection (B) of this section until released by the police chief.

F. The holding period for any item of regulated property shall not exceed 180 days from the date of purchase.

G. If unreasonable hardship will result from holding regulated property as required under this section, the second-hand dealer may request in writing that the police chief shorten the length of the holding period. The request should identify the property to which the request relates and state the reason extreme hardship will result if the holding period is not shortened. The police chief may grant a request to shorten the length of the holding period if the second-hand dealer establishes clear and convincing grounds to believe that undue hardship will occur if the request is not granted. If the police chief decides relief from the holding period is appropriate, the police chief shall provide the second-hand dealer who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The authorization shall be effective only upon delivery of the written authorization to the second-hand dealer.

H. The holding requirements under subsections (B) and (D) of this section will not apply to any regulated property that is purchased from a second-hand dealer and subsequently returned to that same dealer, so long as the dealer can confirm the prior purchase through sales receipt or other method of recordkeeping and one complete holding period has elapsed.

§ 5.40.140 Inspection of Property and Records.

A. Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the police chief has reasonable grounds to believe more likely than not that a specific item of regulated property held by a second-hand dealer is associated with criminal conduct, the police chief may enter the premises of the second-hand business at any reasonable time, provided that the premises are occupied at the time of entry and the police chief presents proper official identification at or near the time of demanding entry. If entry is refused, the police chief shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.

B. Authority to inspect second-hand business premises under this ordinance is in addition to and not in limitation of the authority the city or the police chief would otherwise have to enter the business premises.

C. Once allowed to enter the premises of the second-hand business, the police chief may inspect property kept there. The police chief may also inspect the business records associated with regulated property and perform any duty imposed upon the city or the police chief by this ordinance.

§ 5.40.150 Penalty.

A. Violation of a provision of this ordinance by a person constitutes a Class I Civil Infraction to be processed in accordance with the provisions of Newberg City Code 2.30.170-2.30.250.

B. Violation of a provision of this ordinance by a person who helps own, manage or operate a second-hand business shall be grounds to revoke any second-hand dealer permit issued to that second-hand business.

C. Violation of a provision of this ordinance by a person shall constitute a public nuisance subject to abatement in accordance with the provisions of Newberg City Code 8.15.170-8.15.260.

D. A finding that a person has committed a violation of this ordinance shall not act to relieve the person from the provisions of this ordinance.

E. The penalties imposed by this section for violation of this ordinance are in addition to and not in limitation of any other action or claim available to the city or any other governmental jurisdiction.

F. Violation of Newberg City Code 5.40.040 is punishable by a fine of not more than \$500 per item sold or attempted to be sold without the consent of the item's owner.

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DATE ACTION REQUESTED: October 3, 2011

Order ___ **Ordinance** XX **Resolution** ___ **Motion** ___ **Information** ___
No. **No. 2011-2743** **No.**

SUBJECT: Amending Municipal Code Sections 2.15.330 through 2.15.480, which established the Traffic Safety Commission, in order for more specification and clarification of membership, notices, and Traffic Safety Commission decisions.

Contact Person (Preparer) for this Motion: Terry Mahr
Dept.: City Attorney's Office
File No.:

HEARING TYPE: **LEGISLATIVE** **QUASI-JUDICIAL** **NOT APPLICABLE**

RECOMMENDATION:

Adopt **Ordinance No. 2011-2743** amending Code Sections 2.15.330 through 2.15.480.

EXECUTIVE SUMMARY:

The City Council has requested that the code provisions for boards, commissions, and committees be updated and have an overall consistency with how boards, commissions, and committees are operated.

The Traffic Safety Commission (TSC) has also requested that their commission's code provisions undergo a major revision for clarity purposes. The TSC has met on numerous occasions to discuss proposed drafts of their commission's code provisions.

TSC recommends approval of these provisions.

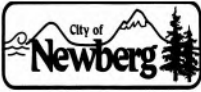
Attachment: Attached to this RCA are the Code provisions with the changes showing.

FISCAL IMPACT:

None.

STRATEGIC ASSESSMENT:

Establishes policy and procedure consistency amongst boards, committees, and commissions of the City and brings such protocol in better alignment with current times and operations of boards, committees, and commissions.



ORDINANCE NO. 2011-2743

AN ORDINANCE AMENDING MUNICIPAL CODE SECTIONS 2.15.330 THROUGH 2.15.480, THAT SETS OUT THE TRAFFIC SAFETY COMMISSION, IN ORDER FOR MORE SPECIFICATION AND CLARIFICATION OF MEMBERSHIP, NOTICES, AND TRAFFIC SAFETY COMMISSION DECISIONS

RECITALS:

1. The City Council has requested that the code provisions for boards, commissions, and committees be updated and have an overall consistency with how boards, commissions, and committees are operated.
2. The Traffic Safety Commission (TSC) has also requested that their commission’s code provisions undergo a major revision for clarity purposes.
3. The TSC has met on numerous occasions to discuss the proposed drafts and recommends adoption of these code provisions.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1 – Adoption of Code Provisions. The provisions of the Municipal Code of the City of Newberg are added to the municipal code and have full force and effect:

Article II. Traffic Safety Commission

2.15.330 Establishment.

There is established a Newberg traffic safety commission (“commission”) for the city of Newberg.

2.15.340 Membership.

The commission will consist of nine (9) voting members. The members, including the student member, will be appointed by the mayor, subject to the confirmation by the city council. ~~The mayor, city manager, police chief, city engineer, and student from one of the local high schools will serve as ex-officio non-voting members of the commission. Police chief and city engineer may designate a person in their department to serve in their capacity.~~

Deleted: The candidates for the commission will be interviewed by the current commission. The commission will then provide recommendations to the mayor for the appointment.

2.15.350 Terms of office.

The members of the commission will serve for a term of three (3) consecutive calendar years. ~~The terms will begin January 1st of the first calendar year and end December 31st of the last calendar year. The terms of the members will be established in approximately equal expiration of terms each year. The term of the student members will begin June 1st of each calendar year and end May 31st of succeeding calendar year with reappointment not to exceed three (3) years.~~ Members of the commission will continue after expiration of the term until such time as their successors are appointed.

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2.15.360 Appointment and qualifications.

The procedure and qualifications for appointment to positions on the commission are as follows:

A. The city will give public notice of any vacancy of the commission and accept such applications for vacancies.

B. The application for membership on the commission will state the principal occupation, residence of the applicant, and other information or qualifications the city may deem necessary.

C. All members will have their principal place of residency in the city of Newberg, except two (2) members may have their residency outside the city limits, but within the urban growth boundary of the city.

2.15.370 Vacancies and removals.

The city will fill vacancies and remove commissioners as follows:

A. Any vacancy on the commission will be filled by appointment by the mayor with the consent of the city council for the unexpired term of the predecessor.

B. A member of the commission may be removed by recommendation of the mayor with consent of the city council after hearing for misconduct or nonperformance of duty.

C. When a commission member has failed to attend three (3) consecutive commission meetings or has three (3) or more unexcused absences from meetings during a calendar year, the member will be rebuttably presumed to be in nonperformance of duty, and the chairperson will notify the mayor of such situation.

2.15.380 Presiding members.

At the commission's first meeting of each calendar year, the commission will elect a chair and a vice chair. The chair will preside at all meetings of the commission. The vice chair will preside in the absence of the chair. An election will be held thereafter on the first meeting of each calendar year for the purpose of electing a chair and a vice chair of the commission. The police chief, or designee, will act as secretary to the commission.

2.15.390 Meetings, Quorum, and Official action.

Meetings of the commission will be called and conducted in the following manner:

A. Regular Meetings. The commission will hold regular meetings at a time and place designated by the commission. The commission will meet whenever business warrants but, in no event, not less than quarterly. Notice of meetings and the agenda will be published in accordance with Oregon Public Meetings Law.

B. Special and Emergency Meetings. A special meeting of the commission may be called by the chair, upon its own motion, or the police chief, upon his/her own motion, or at the request of the majority of the members of the commission. Notice of the meeting will be given in accordance with the Oregon Public Meetings Law. An emergency meeting of the commission may be called in the same manner as a special meeting. The facts constituting the emergency will be placed upon the record as the first order of business of that meeting.

C. Quorum. A majority of the voting members (five members) of the commission will constitute a quorum. A Quorum is required to be present at meetings in order to conduct official business.

D. Official Action. A vote of the majority of the quorum will be necessary to take any official action by the commission.

E. Public Meetings. The meetings of the commission will be open to the public and subject to the Oregon Public Meetings Law. Meetings other than regularly scheduled meetings may be announced at a prior meeting.

2.15.400 Purpose and duties.

A. The purpose of the commission is to promote traffic safety through investigation, study and analysis of traffic safety programs; to conduct educational efforts among the public in the matters of public safety; to consider all traffic safety programs which are referred to them for recommendation by the city council and to make reports to the city council on matters of traffic safety and traffic safety programs.

B. The commission will decide on the location of parking, crosswalks, safety zones, traffic lanes, truck routes and all manner of traffic control devices within the community.

2.15.410 Authority.

The commission will conduct hearings to consider and make decisions concerning its duties and deciding upon locations of parking, crosswalks, safety zones, and traffic control signs within the community using the following procedure:

A. Limited Traffic Decisions. The commission will make limited traffic decisions, which are traffic decisions which affect one particular location and are confined to one location, in the following manner:

1. Notice of the commission's limited traffic decision will be given to the property owners that are within three-hundred (300) feet of the location of the traffic control change in which the decision is concerned.
2. In addition to the decision, the notice will state the following:
 - a. That the person can submit written comments within fourteen (14) days of the notice giving any input concerning the decision. The mailing address and email address where written response should be sent will be stated.
 - b. The person may request a public hearing concerning the decision and that if two (2) or more adjacent property owners request the public hearing, a public hearing will be held.
 - c. That the respondent will give the name, address and location in which it wishes to receive the notice of public hearing and final decision when it is made.
3. The decision, along with a copy of the notice and any written response, will be forwarded to the commission at the time and date of the meeting in which the decision will be before them.
4. If a request for a public hearing is made, public notice will be made stating that a public hearing is to be held and written notice will be given to property owners within three-hundred (300) feet.
5. The commission will meet and deliberate concerning the decision using a procedure which they have adopted.

6. When the commission makes a final decision, notice of such decision will be made to any person submitting written response. Such notice will notify the person of their right to appeal the decision.

B. General Traffic Decisions. General traffic decisions are decisions which affect the entire community, or are decisions which affect a number of locations. Such decisions are truck routes, general parking policies, parking for one-way grids affecting more than one block, general signage policies, traffic safety hazard policies and traffic safety programs. Such decisions will be made in the following manner:

1. Notice will be given in a method reasonably calculated to give all interested parties notice.
2. Such notice will state the following:
 - a. The time, date and place of the hearing.
 - b. The recommended decision to be made.
 - c. The criteria to be used in making the decision.
 - d. That public testimony will be taken at the hearing.
 - e. Written comments can be made and the location where such comments can be delivered, mailed, or emailed.
3. The commission will meet at the time and date to conduct a hearing pursuant to the process adopted by the commission.
4. When the commission has made a decision, reasonable notification of the decision will be given and the right of any party making an appearance in the hearing by either written form or by oral testimony will be informed of their right to appeal. Notice of the decision may be done by announcing the decision and the right to appeal at the hearing where the decision is made.

C. Decisions of Commission. All decisions of the commission will be final unless such decision is appealed by parties having the right to appeal such decision to the city council in accordance with NMC 2.15.450.

2.15.420 Final decisions – Enactment.

Final decisions will be forwarded to the city manager or designee to enact the decision and do all necessary work to carry out the decisions of the commission. Such work will be performed under the direction of the city manager or designee. Specific action taken in carrying out the final decisions will be the responsibility of the city manager or designee.

2.15.430 Log of decisions.

Decisions made by the commission will be set out in a schedule in chronological date order and in accordance with the type of decision, the date of the decision, the brief description of the decision made and the date in which the action was taken for the decision. The police chief or designee will have the authority to update the schedule. Such schedule, as soon as reasonably possible, but in no event later than quarterly, will be presented to the commission for its review and comment.

2.15.450 Appeals of decisions.

The decisions of the commission can be appealed to the city council. The commission will have an opportunity to reconsider its decision when a petition for appeal is filed. The following procedure is established for an appeal of a commission decision:

A. Parties Who Can Appeal. Any party appearing before the commission, either in written form or by oral testimony, the city manager, and the police chief have the authority to appeal the decision of the commission.

B. Petition for Appeal and Time of Filing. Any decision of the commission can be appealed to the city council if such appeal is made within fourteen (14) days of the date of the decision. Such appeal will be made upon the petition prescribed for and approved by the commission stating the name of the party, indicating standing of party to appeal, demonstrating where the decision was in error, and what, if any, new evidence is available that was not available at the hearing.

C. Reconsideration. Such petition will immediately be placed upon the next regular meeting of the commission for reconsideration of the decision. The commission may consider any new evidence presented, the record of the decision and any reason stated by the appellant. The commission may set the matter down for further hearing, affirm its previous decision, alter its decision in any manner it deems proper, or take no action.

D. Appeal to the Council. If the decision is reaffirmed or no action is taken, or within fourteen (14) days after the commission has altered its decision, and the appealing party is notified of the commission's actions, the party filing the appeal will notify the city if they wish the matter to be appealed to the city council.

E. Affect of Decision While Appeal or Reconsideration Is Pending. The decision of the commission will be held in abeyance pending appeal to the city council. However, this does not affect the ability of the police chief to enact any decision under the authority granted to him/her under NMC 2.15.470.

2.15.460 City council decisions.

The city council will consider any appeal of a decision by the commission using the following procedure:

A. Record Before Council and Public Testimony. The city council will hear the appeal based upon the record filed, any written information which will consist of all documents before the commission, plus the minutes of the commission. Written material can be submitted by the appellant or any party prior to the council meeting. The council may, upon the majority of the vote, set the matter down for a public hearing where testimony can be heard.

B. Authority of Council. The city council, after hearing, may reverse the commission's decision and/or completely substitute their judgment for that of the commission, and will have the authority to consider all matters, whether they were specified in the appeal or not, remand the matter back to the commission, or do whatever the council deems proper.

C. Final Decision. The decision of the city council is final.

2.15.470 Authority of police chief.

The police chief will have the authority to make traffic decisions as follows:

A. General Authority. The police chief will have the authority to establish, maintain, remove or alter any traffic control device. Such orders of the police chief will designate the findings as to reasons for taking such action, will make entry into the schedule of decisions, and submit a report and findings as to

reasons for taking such action to the traffic safety commission.

B. Ratification by Commission. At a special meeting or the next regularly scheduled meeting, but in no event later than the next regularly scheduled meeting of the commission, the police chief will report the action to the commission and the commission will ratify, affirm, alter or change the action of the police chief. Such decision of the commission can be appealed under the same procedure as any other decision of the commission. During the period of appeal, the decision of the police chief will remain in full force and effect.

C. The police chief and/or designee will have authority to make decisions on all temporary street closures or other temporary traffic changes due to special events, such as Old Fashioned Festival (parade) and other public functions.

2.15.480 Legal advice.

The city attorney will give legal advice to the commission. The commission has the authority to request legal advice from the city attorney, including attendance at meetings.

Section 2 –Repeal of Present Code Provisions and Replacement.

- a. Repeal – Section 1 of this ordinance adopts the entire code provisions pertaining to the Traffic Safety Commission. Some of the provisions have not changed from the present provisions. The present provisions are hereby repealed, and all provisions are readopted.
- b. Replacement – The provisions set out in Section 1 are placed in the Newberg Municipal Code with the numbers as assigned. The code publishing company contracted by the City to update and maintain the Municipal Code has the authority to change the numbering, format, and grammatical structure of the provisions. Any substantive changes have to be adopted by the City Council.

Section 3 – Present Membership of Commission. The Council hereby affirms the present membership and terms of each member.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: November 2, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 3rd day of October, 2011, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Norma I. Alley, City Recorder

ATTEST by the Mayor this 6th day of October, 2011.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through the Traffic Safety Commission at their 05/10/2010, 07/12/2010, 03/14/2011, 04/11/2011, 07/11/2011, and 08/08/2011 meetings

By and through the City Council at their 09/06/11 meeting.

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DATE ACTION REQUESTED: October 3, 2011

Order ___	Ordinance ___	Resolution <u>XX</u>	Motion ___	Information ___
No.	No.	No. 2011-2972		

SUBJECT: Initiate a zone change and a Comprehensive Plan amendment for the Public Safety Building property, and a zone change for the area including the Newberg Thrift Shop and city parking lots, and authorize the City Manager to complete related property line adjustments and property consolidations.

**Contact Person (Preparer) for this Motion: Jessica Nunley, AICP
Dept.: Planning & Building
File No.: G-11-009**

RECOMMENDATION:

Adopt **Resolution No. 2011-2972** to initiate the following actions:

- A zone change from R-3 (High Density Residential) to C-3 (Central Business District) and a Comprehensive Plan amendment from HDR (High Density Residential) to PQ (Public/Quasi-Public) for the Public Safety Building property, Tax Lot 3219AB-18000.
- A zone change from R-2 (Medium Density Residential) to C-3 (Central Business District) for the area including the Newberg Thrift Shop and city parking areas, Tax Lots 3219AC-500, -400, -401, -300, -600, & -200.
- Authorize the City Manager to complete a property line adjustment and property consolidations to resolve building issues in that same block.

EXECUTIVE SUMMARY:

The Newberg Community Hospital Auxiliary, Inc, owners and operators of the Newberg Thrift Shop at 414 E 3rd Street, wish to expand the existing Thrift Shop building. The Thrift Shop property is currently zoned R-2 (Medium Density Residential). The Thrift Shop is an existing non-conforming use in the zone, as the R-2 zone does not permit (or permits very limited) commercial uses. Non-conforming uses are regulated by Chapter 15.205 of the Development Code. Modifications to non-conforming uses and existing buildings are covered by §15.205.040, which states:

Legally existing, non-conforming use of buildings or structures may be maintained subject to the following conditions; provided that said building or structure is not abated, or specifically regulated by this and other chapters of this code. No additions or enlargements shall be made to a non-conforming use of a building or structure except:

- (A) *Additions or enlargements required by law.*
- (B) *Additions or enlargements to existing churches and schools if such otherwise conform to the regulations then in effect for the district in which located, including height, yard and area provisions.*

Therefore, an addition to the Thrift Shop is not permitted under the current zoning designation. A solution to permit an addition to the existing Thrift Shop would be to change the zoning from R-2 to C-3 (Central Business District). However, the Thrift Shop parcel is separated from the current C-3 zoning district by the City’s Public Safety Building. The Public Safety Building’s current zoning is R-3 (High

Density Residential), which permits public & semi-public buildings but requires a 25-foot setback from property lines. The Public Safety Building does not meet these setbacks. The C-3 zoning district permits public & semi-public buildings without requiring the same 25-foot setback. Therefore, the best solution for the area would be to change the zoning of all the adjacent parcels to C-3:

- City owned parcels: 3219AB-18000, 3219AC-00500, 3219AC-00400, 3219AC-00401, 3219AC-00600, 3219AC-00200
- Parcel owned by Newberg Community Hospital Auxiliary, Inc: 3219AC-00300

The current Thrift Shop building is built up to the southern property line; therefore, an addition would not be permitted that would cross the property line. The Thrift Shop building is on an island of grass surrounded by sidewalk and street in the front, and drive aisles and parking on the sides and rear. The City owns all of the adjacent parcels, including the grassy portion south of the existing Thrift Shop building. A portion of the Thrift Shop parcel includes the drive aisle to the City's Public Safety Building parking area. A solution to this issue is to do a lot line adjustment, shifting the northern and southern property lines further south so that the entire grassy area is included in one parcel for the Thrift Shop, and the drive aisle for the Public Safety Building is on a City owned parcel. In addition, the City may want to consider doing a lot line consolidation for the six adjacent parcels to remedy other property line building issues.

FISCAL IMPACT:

The zone change would have a small fiscal impact on the city through application costs and staff time. The zone change application cost is \$3580 (\$1810 for a Zoning Map amendment + \$1770 for a Comprehensive Plan amendment), the property line adjustment application cost is \$680, and the property line consolidation cost is \$135, plus staff time to process the applications. However, completing the zone change and property line adjustment would enable the Thrift Shop to expand their current facility and increase their revenue. There would be a positive fiscal impact overall by supporting the Thrift Shop, and in turn supporting their charitable giving of profits in the community.

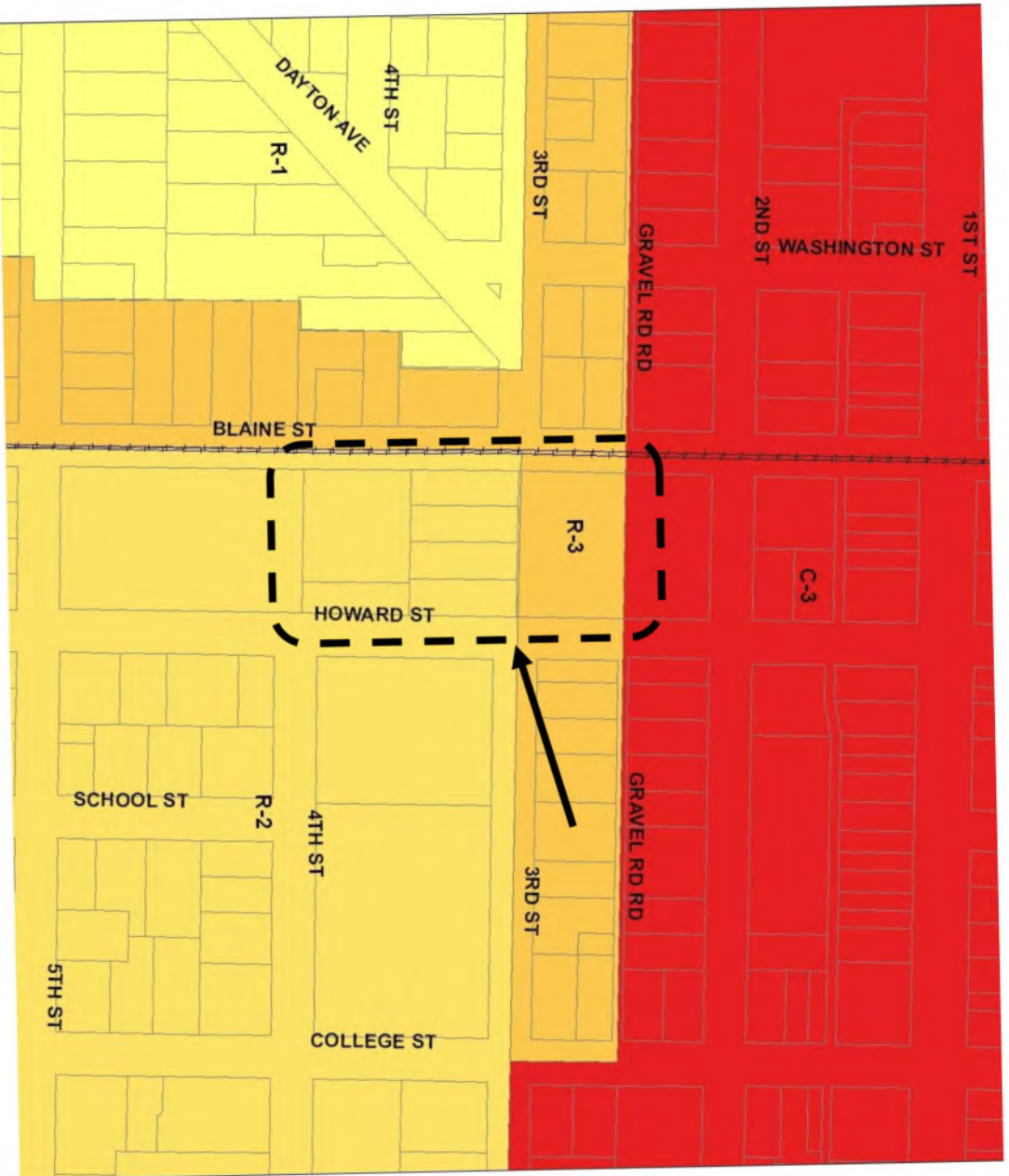
STRATEGIC ASSESSMENT:

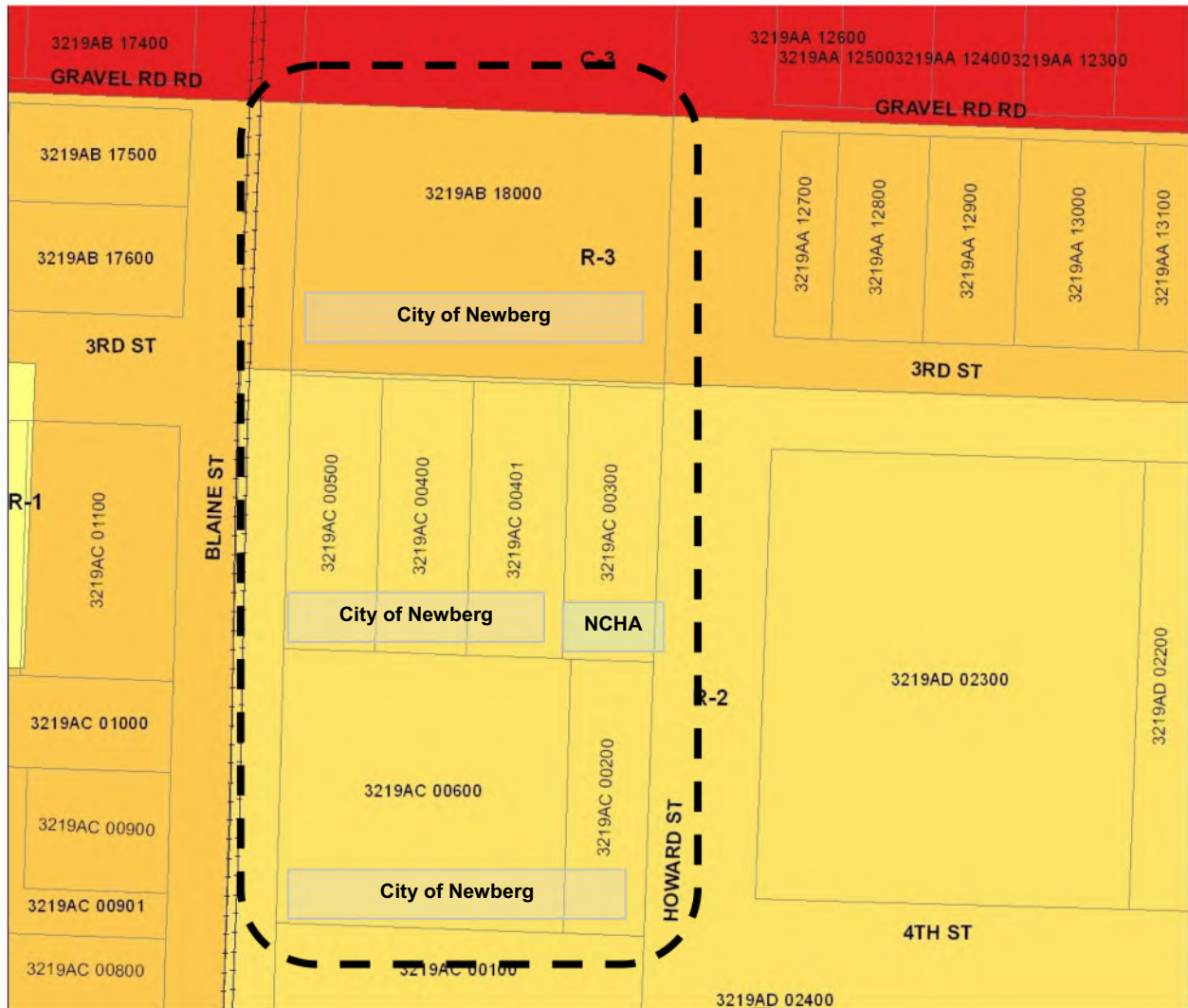
The Newberg Community Hospital Auxiliary, Inc strongly supports the community in a number of ways, including by donating generously to the Fire Department, the Police Department, and other organizations within the city. It would benefit their organization to expand their building to increase the space for their merchandise and manage community donations, allowing them to increase revenue and continue with their charitable giving. The Newberg Public Safety Building currently does not meet the setback requirements of its R-3 zoning designation, and would benefit from a zone change to C-3 which also permits public buildings but that does not have the same setback requirements. Therefore, initiating a zone change for this block of properties to C-3 would have an overall community benefit by supporting the Thrift Shop operation, and it would additionally bring all of the properties into compliance with current regulations. Similarly, authorizing the property line adjustment and property consolidations would allow the Thrift Shop to expand while remedying property line building issues in the block.

ATTACHMENTS

1. **Zoning Map**
2. **Zoning Map with Tax Lot Numbers & Ownership**
3. **Aerial Map**
4. **Comprehensive Plan Map**

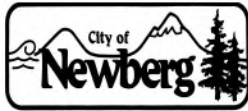
Attachment 1





Attachment 3





RESOLUTION No. 2011-2972

A RESOLUTION INITIATING A ZONE CHANGE FROM R-3 (HIGH DENSITY RESIDENTIAL) TO C-3 (CENTRAL BUSINESS DISTRICT) AND A COMPREHENSIVE PLAN AMENDMENT FROM HDR (HIGH DENSITY RESIDENTIAL) TO PQ (PUBLIC/QUASI-PUBLIC) FOR THE PUBLIC SAFETY BUILDING PROPERTY, TAX LOT 3219AB-18000, AND INITIATING A ZONE CHANGE FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO C-3 (CENTRAL BUSINESS DISTRICT) FOR THE AREA INCLUDING THE NEWBERG THRIFT SHOP AND CITY PARKING LOTS, TAX LOTS 3219AC-500, -400, -401, -300, -600, & -200, AND AUTHORIZING THE CITY MANAGER TO COMPLETE A PROPERTY LINE ADJUSTMENT AND PROPERTY CONSOLIDATIONS IN THAT SAME BLOCK OF TAX LOTS

RECITALS:

1. The Newberg Community Hospital Auxiliary, owners and operators of the Newberg Thrift Shop, wish to expand their building located at 414 E Third Street, to better manage donations and increase the space for their merchandise. The Thrift Shop property is zoned R-2 (Medium Density Residential), which does not permit commercial retail activities. The current Thrift Shop is an existing non-conforming use in the R-2 zone, and the Development Code does not permit additions or enlargements of non-conforming uses. A solution to permit an addition to the existing Thrift Shop would be to change the zoning from R-2 to C-3 (Central Business District).
2. The Newberg Public Safety Building property is zoned R-3 (High Density Residential), which permits public & semi-public buildings but requires a 25-foot setback from property lines. The Public Safety Building does not meet these setbacks. The Public Safety Building property is adjacent to properties zoned C-3, which permits public & semi-public buildings without requiring the same 25-foot setback. A solution to bring the Public Safety Building into compliance with the Development Code standards would be to change the zoning from R-2 to C-3.
3. The City Council may pass a resolution to initiate a zone change for a small group of parcels through a Type III process. The zone change proposal would go to the Planning Commission for a recommendation to the City Council, then to the City Council for a final decision.
4. The current Thrift Shop building is built up to the southern property line; therefore, an addition would not be permitted that would cross the property line. The Thrift Shop building is on an island of grass surrounded by sidewalk and street in the front, and drive aisles and

parking on the sides and rear. The city owns all of the adjacent parcels, including the grassy portion south of the existing Thrift Shop building. A portion of the Thrift Shop parcel includes the drive aisle to the City's Public Safety Building parking area. A solution to this issue is to do a lot line adjustment, shifting the northern and southern property lines further south so that the entire grassy area is included in one parcel for the Thrift Shop, and the drive aisle for the Public Safety Building is on a city owned parcel. In addition, the city may want to consider doing a lot line consolidation for the six adjacent parcels to remedy other property line building issues.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City Council initiates a zone change proposal to change the zoning of Tax Lot 3219AB-18000 from R-3 (High Density Residential) to C-3 (Central Business District), and to change the zoning of Tax Lots 3219AC-500, -400, -401, -300, -600, & -200 from R-2 (Medium Density Residential) to C-3 (Central Business District).
2. The city manager is authorized to complete a property line adjustment with the Newberg Community Hospital Auxiliary to shift the northern and southern property lines further south to enclose the grassy area in one parcel.
3. The city manager is authorized to explore consolidation of city owned properties in that block to resolve existing property line building issues.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: October 4, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 3rd day of October, 2011.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 6th day of October, 2011.

Bob Andrews, Mayor

NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: October 3, 2011

Prepared by: Norma Alley

Councilors	Roll Call	MOTION Topic: Special Presentations – Rasmussen and Days of Culture Proclamations APPROVE	ORDINANCE NO. 2011-2743 Topic: TSC Code Amendments APPROVE	RESOLUTION NO. 2011-2972 Topic: Initiate Lot Line Adjustment, Not do Zone Change, & Look Into Civic Corridor Goals	RESOLUTION NO. 2011-2972 Topic: Initiate Zone Change & Lot Line Adjustment APPROVE	MOTION Topic: have a Work Session Discussion on Goals for the Civic Corridor	MOTION Topic: Install a Veteran Parking Spot	MOTION Topic: Bypass Phase I Support APPROVE AS AMENDED
ANDREWS, Bob, Mayor	X	YES	YES		YES	YES	YES	YES
BACON, Denise	X	YES	YES	FAILED	YES	YES	YES	YES
HOWARD, Ryan	X	YES	YES	FOR	YES	YES	NO	YES
McKINNEY, Stephen	X	YES	YES	LACK	YES	YES	YES	YES
RIERSON, Bart	X	YES	YES	OF	YES	YES	YES	YES
SHELTON, Marc		ABSENT	ABSENT	SECOND	ABSENT	ABSENT	ABSENT	ABSENT
WITHERSPOON, Wade	X	YES	YES		YES	YES	YES	YES
ROLL CALL VOTES		YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: NO: Absent: Abstain:	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 5 NO: 1 Absent: 1 Abstain: 0	YES: 6 NO: 0 Absent: 1 Abstain: 0
Department Prepared Action Item:		Administration	Legal	Planning				
MOTION (1st/2nd):		Witherspoon/ Rierson	Witherspoon/ McKinney	Howard/	Wither spoon/ Rierson	McKinney/ Witherspoon	Andrews/ Rierson	Andrews/ Witherspoon

Amendment – witherspoon/rierson changed #1

AMENDMENT – RIERSON/MCKINNEY – remove recital #5 and renumber. Witherspoon opposed 5/1/1

NEWBERG CITY COUNCIL MEETING INFORMATION

Meeting Date: October 3, 2011

Prepared by: Norma Alley

Councilors	Roll Call	MOTION Topic: Bypass Phase I Support AMEND REMOVE FUNDING AMOUNT IN RESOLVES 1	MOTION Topic: Bypass Phase I Support AMEND REMOVE RECITAL #5	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:	Res/Ord/Order # _____ Topic:
ANDREWS, Bob, Mayor	X	YES	YES					
BACON, Denise	X	YES	YES					
HOWARD, Ryan	X	YES	YES					
McKINNEY, Stephen	X	YES	YES					
RIERSON, Bart	X	YES	YES					
SHELTON, Marc		ABSENT	ABSENT					
WITHERSPOON, Wade	X	YES	NO					
ROLL CALL VOTES		YES: 6 NO: 0 Absent: 1 Abstain: 0	YES: 5 NO: 1 Absent: 1 Abstain: 0	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:	YES: NO: Absent: Abstain:
Department Prepared Action Item:								
MOTION (1st/2nd):		Witherspoon/ Rierson	Rierson/ McKinney					

Code Enforcement

by Cody Gardner



Nuisance Abatement for Default & Foreclosure Properties

-Staff Presentation-

October 3, 2011 – City Council Meeting

Presentation Overview

- ◆ Foreclosure Crisis
- ◆ Defaults v. Foreclosures
- ◆ Nuisance Abatement
- ◆ Future Abatement
- ◆ Conclusion

Foreclosure Crisis

- ◆ 1.4 million foreclosures nationwide
- ◆ The average period for a homeowner to lose their home in the foreclosure process rose 75% since 2008
 - ◆ Legal challenges
 - ◆ Government pressure to work with borrowers
 - ◆ Sheer volume of problem mortgage
- ◆ On average it takes 341 days for the bank to foreclose and repossess property in Oregon
- ◆ An estimated 150 residential default/foreclosure properties in Newberg

Defaults v. Foreclosures

◆ DEFAULT: Owner Occupied/Default Property

- ◆ Bank begins foreclosure process in the event that homeowner does not make a mortgage payment after 45 days
- ◆ Borrower continues to be the legal property owner until bank finalizes the foreclosure process
- ◆ Code Enforcement works with occupant to remedy violations

◆ FORECLOSURE: REO (Real Estate Owned)

- ◆ Bank owns property
- ◆ Property is usually violation-free
 - ◆ If violations do exist, bank representatives are readily available to resolve issues and/or concerns

Defaults v. Foreclosures (Cont.)

◆ Vacant/Abandoned Default Property

- ◆ Bank begins foreclosure process and the property owner vacates and/or abandons the property
 - ◆ Property owner vandalizes property
 - ◆ Garbage, junk, rubbish, animals, cars, etc.
 - ◆ Obnoxious vegetation

Defaults v. Foreclosures (Cont.)

- ◆ VACANT/ABANDONED (DEFAULT) Properties are the Problem!
 - ◆ Contacting legal owner is difficult
 - ◆ Persistent code violations (re-occurring)
 - ◆ Achieving compliance is difficult, lengthy and expensive
 - ◆ Property can remain vacant for years

Nuisance Abatement

- ◆ Resolving violations: Two Avenues per Code
 - ◆ Citations = \$59, 780 (Collected \$3,654.51)
 - ◆ Hiring out the work; placing liens against the property
 - ◆ \$200 for grass clean up (expensive)
 - ◆ City may not recoup cost of clean-up
 - ◆ Coordinating with volunteer groups

Nuisance Abatement (Cont.)

- ◆ Resolving violations:
 - ◆ Mortgage servicing company's
 - ◆ Computer Registry Systems
 - NAMFS (National Association of Mortgage Field Services)
 - Mers Link
 - Chain mail
 - ◆ Writ of Execution (force the sale of the property)
 - ◆ Property preservation with new owner
 - ◆ Collect unpaid citations

915 E 13th St



915 E Thirteenth St



111 E 9th ST



111 E 9th St



412 Dayton AVE



07/07/2011 11:10

412 Dayton AVE



902 S Chehalem St



902 S Chehalem St



904 S River St



904 S River St



904 S River St



1802 N College St



1802 N College St



1802 N College St



3101 Middlebrook Dr



3101 Middlebrook Dr



07/06/2010 08:05

3101 Middlebrook Dr



3101 Middlebrook Dr



215 E Sherman St



215 E Sherman St



215 E Sherman St



215 E Sherman St



215 E Sherman St





215 E Sherman St

215 E Sherman St



Future Abatement

- ◆ Working to find innovative legal avenues
- ◆ Continue to work with volunteer groups to resolve issues in the community
- ◆ Grinding the axe
- ◆ Working with Oregon Code Enforcement Association to form a legislative committee
 - ◆ Committee will work to propose legislation to fight blight created by default/foreclosed properties

Conclusion

- ◆ Three types of property in default/foreclosure:
 - ◆ Bank Owned
 - ◆ Default Occupied
 - ◆ Default Vacant
- ◆ 99% of the time, default vacant properties are the problem
 - ◆ These properties can be vacant for years
 - ◆ Legal owner has left city, state or country
 - ◆ Contacting the legal owner is difficult/impossible
- ◆ Abate nuisances using all resources available
- ◆ Grind the axe, stay connected, innovate!



OREGON GOVERNOR'S COUNCIL ON
PHYSICAL FITNESS AND SPORTS

www.fitoregon.org



John Kitzhaber

September 20, 2011

Mayors Ted Crawford & Bob Andrews
Cities of Newberg and Dundee
PO Box 220
Dundee, Oregon 97115

City Council Meeting

Date: October 3, 2011

Re: Bart Rierson Award

No: V. Special Presentation

Dear Mayors Crawford & Andrews,

It is my pleasure to inform you that Bart Rierson has been selected to receive a 2011 Fitness Leadership Award. You will receive the award at the League of Oregon Cities Annual Meeting. We hope you will be in attendance at the League of Oregon Cities meeting.

**Thursday, September 29, 2011
Oregon Mayor's Association
Business Meeting 4:30 p.m.
Bend, Oregon**

Please note that we have NOT notified your award recipient about the award. We prefer to leave it up to each mayor(s) to decide how best to recognize award recipients. We suggest that you recognize the awardee at your local City Council meeting. Please feel free to let us know if you would like a member or a friend of the Governor's Council to recognize your honoree at a future City Council meeting. We'll make every effort to accommodate your request.

Thank you for participating in this important project; it moves us a little closer to our mission of healthy, physically active citizens all across our great state. We hope you can make arrangements to join us for a terrific event.

Sincerely Yours,

Trevor Hostetler
Oregon Governor's Council on Physical Fitness and Sports

Newberg Thrift Shop

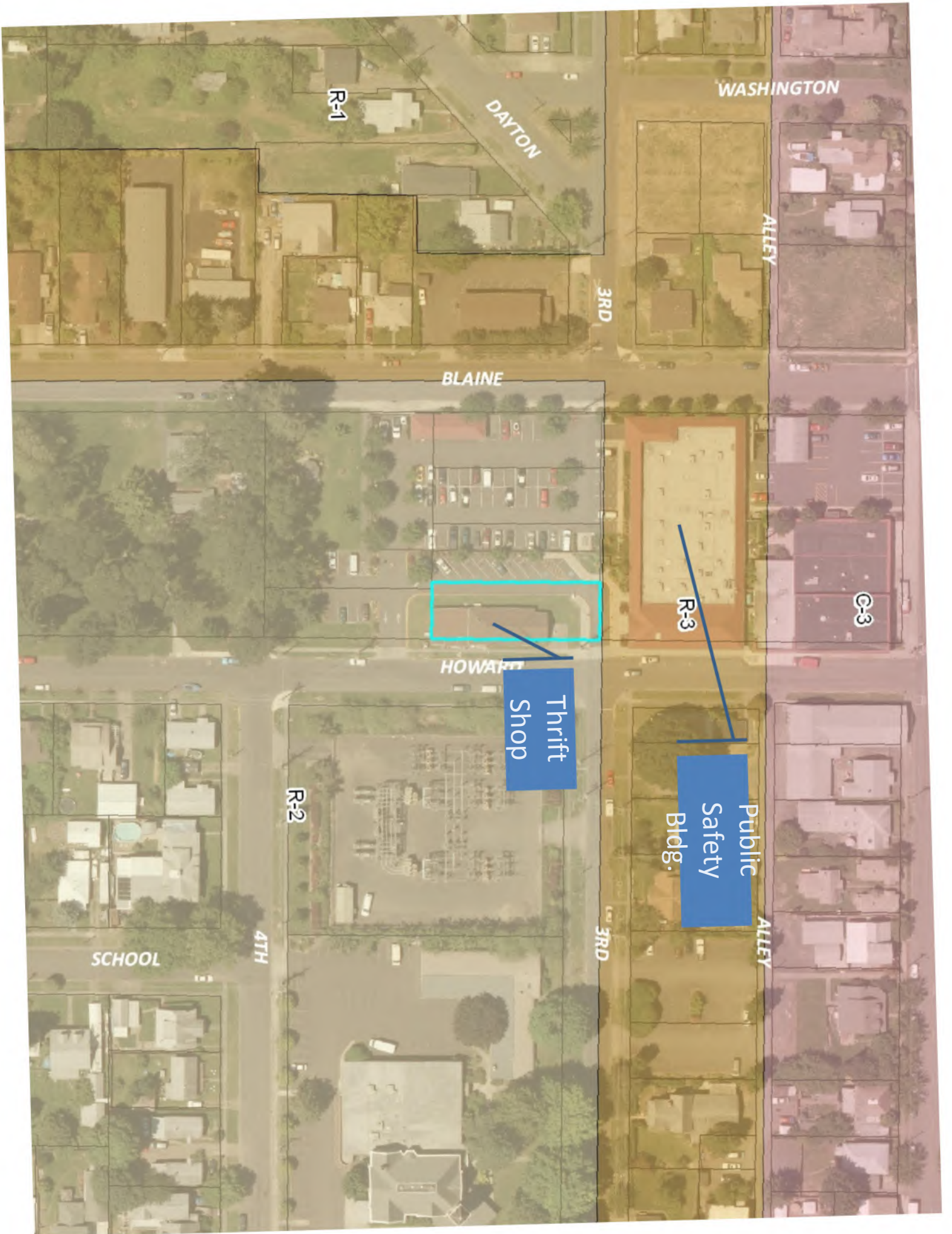
Resolution 2011-2972

Staff Presentation

October 3, 2011 City Council Meeting

Request

- ***Initiate*** a Comprehensive Plan Amendment and Zone Change for the Newberg Thrift Shop and Public Safety Building.
- ***Authorize*** the City Manager to complete a property line adjustment between the Thrift Shop parcel and the Public Safety Building parcel



R-1

DAYTON

WASHINGTON

ALLEY

3RD

BLAINE

R-3

C-3

HOWARD

Thrift Shop

Public Safety Bldg.

ALLEY

3RD

R-2

4TH

SCHOOL



Shift property line south

Shift property line south

Recommendation

- Adopt Resolution 2011-2972, initiating the zone change, and authorizing the City Manager to complete the property line adjustment

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: October 3, 2011

Order ___ **Ordinance** ___ **Resolution** XX **Motion** ___ **Information** ___
No. **No.** **No. 2011-2975**

SUBJECT: Supporting funding efforts for Phase 1 of the Newberg-Dundee Bypass Project

Contact Person (Preparer) for this Motion: Bob Andrews, Mayor
Dept.: Administration
File No.:

RECOMMENDATION:

Adopt **Resolution No. 2011-2975** supporting the Newberg-Dundee Bypass Phase I efforts.

EXECUTIVE SUMMARY:

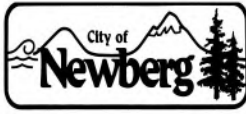
Phase I of the Newberg-Dundee Bypass is slated to begin construction in 2014. There is still a funding shortfalls of \$30,000,000.00, which the State is looking to the local governments to provide funding to close this gap. It has been recommended for the County and Cities to give a portion of the increased gas tax income toward the Bypass project to help close this gap. The state has also been encouraged to look to grants for additional funding possibilities.

FISCAL IMPACT:

The increased funding amount is not calculable at this time due to the calculations based on consumption.

STRATEGIC ASSESSMENT:

The Newberg City Council supports the Newberg-Dundee Bypass and creative funding sources as the Bypass will potentially remove trucks off our downtown core making our community a safer place for the community as a whole.



RESOLUTION No. 2011-2975

A RESOLUTION SUPPORTING FUNDING EFFORTS FOR PHASE 1 OF THE NEWBERG-DUNDEE BYPASS PROJECT

RECITALS:

1. The State of Oregon has recognized the need for the Newberg-Dundee Bypass by placing the project on a list of Transportation Projects of Statewide Significance.
2. The Oregon State Legislature in 2009 passed HB2001 referred to as the Oregon Jobs for Transportation Act (JTA), which recognizes the economic importance of the Newberg-Dundee Bypass and has specifically allocated \$192,000,000.00 to fund Phase I of the project.
3. The Newberg-Dundee Bypass has been supported in Congress on a bipartisan and bicameral basis for many years, receiving \$28 million in federal funds from authorizing (TEA-21 and SAFETEA-LU) legislation and multiple years of annual appropriations bills, which has already funded significant amounts of right-of-way acquisition, a completed location environmental impact study (EIS) record of decision (ROD), and the Final EIS/ROD expected by March, 2012.
4. The City of Newberg has adopted modifications to the Newberg Transportation System Plan recognizing the need to address traffic congestion and unsafe driving conditions on Highway 99W.
5. The local governments of Yamhill County agree in principal to a local match of \$20,000,000.00 from increased revenues provided to these local governments as the result of passage of the JTA in 2009.
6. A funding shortfall of nearly \$30,000,000.00 has been identified as needed to complete funding for Phase I of the project.
7. The Oregon Transportation Commission has identified the Newberg-Dundee Bypass as a high priority project having a significant funding gap that could be filled with a grant from US DOT National Infrastructure Investment Grant Program, otherwise known as a TIGER III.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City of Newberg strongly supports and will work with the local governments of Yamhill County to provide a share of the increased gas tax revenue generated as the result of the passage of the JTA in order to provide a portion of the \$20,000,000.00 local match.

2. Additionally, the City of Newberg also strongly supports efforts by the Oregon Department of Transportation to apply for a TIGER III grant to obtain up to \$30,000,000.00 in additional funding in order to complete funding for Phase I of the Newberg-Dundee Bypass.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: October 4, 2011.

ADOPTED by the City Council of the City of Newberg, Oregon, this 3rd day of October, 2011.

Norma I. Alley, City Recorder

ATTEST by the Mayor this 6th day of October, 2011.

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through _____ Committee at ____ / ____ / ____ meeting. Or, None.
(committee name) (date) (check if applicable)